VALENTINE ZONING ORDINANCE

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ARTICLE 1
GENERAL PROVISIONS

1.1 Title

This title of the Valentine, Nebraska Municipal Code shall be known as the Zoning Ordinance of the City of Valentine.

1.2 Jurisdiction

The provisions of this ordinance shall be applicable to all property within the corporate limits of the City of Valentine, with the exception of those properties owned or acquired by municipal, county, or state government for the advancement of government projects or purposes.

1.3 Purpose

The purposes of the Zoning Ordinance of the City of Valentine are to:

a. Serve the public health, safety, and general welfare of the city and its jurisdiction.

b. Classify property in a manner that reflects its suitability for specific uses.

c. Provide for sound, attractive development within the city and its jurisdiction.

d. Encourage compatibility of adjacent land uses.

e. Protect environmentally sensitive areas.

f. Further the objectives of the Comprehensive Development Plan of the City of Valentine.

1.4 Consistency with Comprehensive Development Plan

The City of Valentine intends that this Zoning Ordinance and any amendments to it shall be consistent with the City's Comprehensive Development Plan. It is the City's intent to amend this ordinance whenever such action is deemed necessary to keep regulatory provisions in conformance with the Comprehensive Development Plan.

1.5 Conflicting Provisions

The Zoning Ordinance shall be held to provide the minimum requirements necessary for the promotion of the public health, safety, and welfare. If any provision of the Zoning Ordinance conflicts with any other provision of the Zoning Ordinance, any other Ordinance of the City of Valentine, or any applicable State or Federal law, the more restrictive provision shall apply.

1.6 Relief from Other Provisions

Nothing in these provisions shall relieve any property owner or user from satisfying any condition or requirement associated with a previous approval, special permit, variance, development permit, or other permit issued under any local, State, or Federal ordinance or statute.

1.7 Severability of Provision

If any chapter, section, clause, or phrase of this Zoning Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

1.8 Publication

This Ordinance shall be published in book or pamphlet form and shall, together with the maps being a part hereof, shall be filed with the City Clerk of the City of Valentine, Nebraska.

ARTICLE 2
DEFINITIONS

2.1 Purpose

Article Two shall be known as the Definitions. The purpose of these provisions is to promote consistency and precision in the interpretation of the Zoning Ordinance. The meaning and construction of words as set forth shall apply throughout the Zoning Ordinance, unless where modified in a specific section or where the context of such words or phrases clearly indicates a different meaning or construction.

2.2 General Construction of Language

The following general rules of construction apply to the text of the Zoning Ordinance.

a. Headings

Section and subsection headings contained herein are provided for illustrative purposes only and shall not be deemed to limit, govern, modify, or otherwise affect the scope, meaning, or intent of any provision of the Zoning Ordinance.

b. Illustration

In the case of any real or apparent conflict between the text of the Ordinance and any illustration explaining the text, the text shall apply.

c. Shall, Must, and May

"Shall" and "must" are always mandatory. "May" is discretionary.

d. Tenses and Numbers

Words used in the present tense include the future tense. Words used in the singular include the plural, and the plural the singular, unless the context clearly indicates the contrary.

e. Conjunctions

Unless the context clearly indicates the contrary, the following conjunctions shall be interpreted as follows:

1. "And" indicates that all connected items or provisions apply.

2. "Or" indicates that the connected items or provisions may apply singly or in any combination.

3. "Either ... or" indicates that the connected items or provisions shall apply singly but not in combination.

f. Referenced Agencies

Unless otherwise indicated, all public officials, bodies, and agencies referred to in this Ordinance are those of the City of Valentine.

2.3 Definition of Terms

For the purposes of this Zoning Ordinance, certain terms and words are hereby defined. Certain sections contain definitions that are additional to those listed here. Where terms are not specifically defined, their ordinarily accepted meaning or meanings implied by their context shall apply.

2.4 A

1. Abutting: Having lot lines or district boundaries in common. Use interchangeably with adjacent.

2. Accessory Structure: A structure that is incidental to and customarily associated with a specific principal use or building on the same site.

3. Accessory Use: A use that is incidental to and customarily associated with a specific principal use on the same site.

4. Addition: Any construction that increases the size of a building or structure in terms of site coverage, height, length, width, or gross floor area.

5. Agent of Owner: Any person showing written verification that he/she is acting for, and with the knowledge and consent of, a property owner.

6. Alley: A public right of way, other than a street and twenty feet or less in width which is used as a secondary means of access to abutting property.

7. Alteration: Any construction or physical change in the positioning on a site.

8. Apartment: A housing unit within a building designed for and suitable for occupancy by only one family. Apartments are generally located within multi-family residential buildings.

9. Approving Authority: The City Council of the City of Valentine or its designee.

10. ASCE: The American Society of Civil Engineers.

11. Attached: Having one or more walls in common with a principal building or connected to a principal building by an integral architectural element, such as a covered passageway; facade wall extension; or archway.

2.5 B

1. Base Zoning District: A district established by this Ordinance that prescribes basic regulations governing land use and site development standards. No more than one Base Zoning District shall apply to any individually platted lot or parcel unless the lot or parcel is part of a Planned Unit Development.

2. Basement: A level of a building below street level that has at least one-half of its height below the surface of adjacent ground. A basement used for independent dwelling or business purposes shall be considered a story for the purposes of height measurement.

3. Beginning of Construction: The initial incorporation of labor and materials within the foundation of a building or structure.

4. Bicycle Lane and Path: A designated lane on a roadway or an exclusive path separated from a roadway, designed specifically to accommodate the physical requirements of bicycling. Bicycle paths are ordinarily designed to accommodate other forms of non-motorized transportation or recreational movement, but will also accommodate motorized vehicles, such as motorized wheelchairs, designed specifically to provide access to people with disabilities.

5. Block: An area of land within a subdivision that is entirely bounded by streets and/or the exterior boundaries of the subdivision, or by a combination of the above with a watercourse, lake, railroad, or other significant natural or man-made barrier, and which has been designated as such on a plat for the purposes of legal description of a property.

6. Block Face: The property abutting one side of a street and lying between the two nearest intersection streets, or between the one nearest intersecting street and a major physical barrier, including, but not limited to, railroads, streams, lakes, or the corporate limits of Valentine.

7. Board of Adjustment: A body, established by the City expressly for the purpose of granting relief from situations of hardship and to hear appeals as provided by this Ordinance.

8. Boulevard: A public street generally characterized by a wider than normal right-of-way and extensive green space in relation to pavement surface. Boulevards may either include dual street channels separated by a landscaped median; or by a single street channel with wider than normal greenway setbacks behind the curb.

9. Bufferyard: A landscaped area around the perimeter of a tract of land, usually intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.

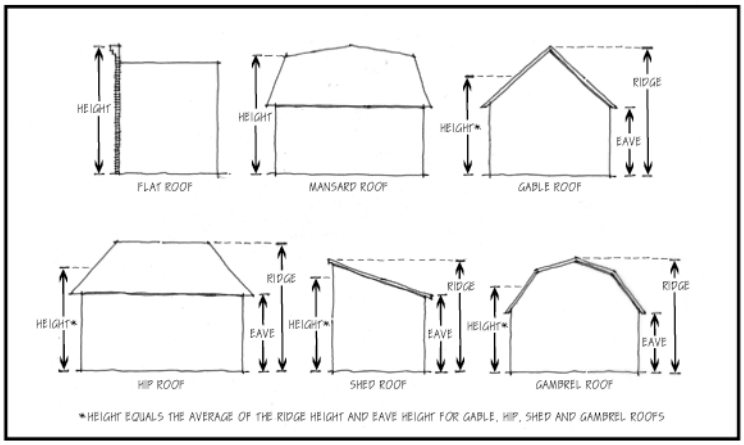
10. Building: A structure entirely separated from any other structure by space or by walls and having a roof and built to provide shelter, support, or enclosure for persons or property.

11. Building Coverage: The at-grade area of a site covered by buildings or roofed areas, excluding allowed projecting eaves, balconies, and similar features, also referred to as the building footprint.

12. Building Elevation: An exterior wall of a building exposed to public view.

13. Building Envelope: The three-dimensional space within which a structure is permitted to be built on a lot after all zoning and other applicable municipal requirements have been met.

14. Building Height: The vertical distance from the established grade to the highest point of the coping of a flat roof, the deck line of a mansard roof, or to the average height between eaves and the ridge for gable, hip, shed, or gambrel roofs. For other cases, height shall be measured as the vertical distance from the established grade to the highest point of a structure as herein defined. Where a building or structure is located on a slope, height shall be measured from the average grade level adjacent to the building or structure.



15. Building Line: The outer boundary of a building established by the location of its exterior walls.

16. Building Official: The city official, designated by the City Manager, who is responsible for the enforcement of the applicable building code and issuance of building permits under the supervision of the City Manager.

17. Building Permit: A document that must be issued by the Building Official prior to erecting, constructing, enlarging, altering, moving, improving, removing, converting, or demolishing any building or structure on a platted lot/s or a parcel as regulated by this Ordinance or by the applicable building codes of the City of Valentine. Issuance of a building permit follows review of plans by the Zoning Administrator to determine that the proposed use of building or land complies with the provisions of the Zoning Ordinance.

18. Business: Activities that include the exchange or manufacture of goods or services on a site.

19. Business Center: A building containing more than one commercial business, or any group of non-residential buildings within a common development, characterized by shared parking and access.

2.6 <u>C</u>

1. Certificate of Occupancy: An official certificate issued by the Zoning Administrator or his/her designee prior to occupancy of a completed building or structure, upon finding of conformance with the applicable building code and this Zoning Ordinance.

2. Change of Use: The replacement of an existing use type by a new use type.

3. Channel: The bed or banks of a natural stream or drainageway that convey the constant or intermittent flow of water, including storm run-off.

4. City: The City of Valentine, Nebraska.

5. City Council: The City Council of Valentine, Nebraska.

6. Common Area: An area held, designed, and designated for common or cooperative use within a development.

7. Common Development: A development proposed and planned as one unified project not separated by a public street or alley.

8. Common Open Space: Land within or related to a development that is not individually owned or dedicated for public use, designed and generally intended for the common use of the residents of the development.

9. Compatibility: The degree to which two or more different land use types are able to exist together in close proximity, with no one use having significant negative effects on any other use.

10. Comprehensive Plan: The duly adopted Comprehensive Plan of the City of Valentine.

11. Concept Plan: A preliminary presentation that includes the minimum information necessary, as determined by the Zoning Administrator, to be used for the purpose of discussion or classification of a proposed plat prior to formal application.

12. Condominium: An ownership regime whereby the title to each unit of occupancy is held in separate ownership, and the real estate on which the units are located is held in common ownership solely by the owners of the units with each owner having an undivided interest in the common real estate. Condominiums may include residential, commercial, office, or industrial uses.

13. County: Cherry County, Nebraska.

14. Courtyard: An open, unoccupied space, bounded on two or more sides by the walls of the building.

2.7 <u>D</u>

1. Density: The amount of development per specific unit of a site.

2. Detached: Fully separated from any other building or not jointed to another building in such a manner as to constitute an enclosed or covered connection.

3. Detention basin: An artificial or natural water collection facility, designed to collect surface or subsurface water and to control its rate of discharge, in order to prevent a net increase in the rate of water flow that existed prior to a development.

4. Developer: The legal owner(s) or authorized agent of any land engaged in a proposed development.

5. Development: A planning or construction project involving substantial improvement or change in the character and/or land use of a property.

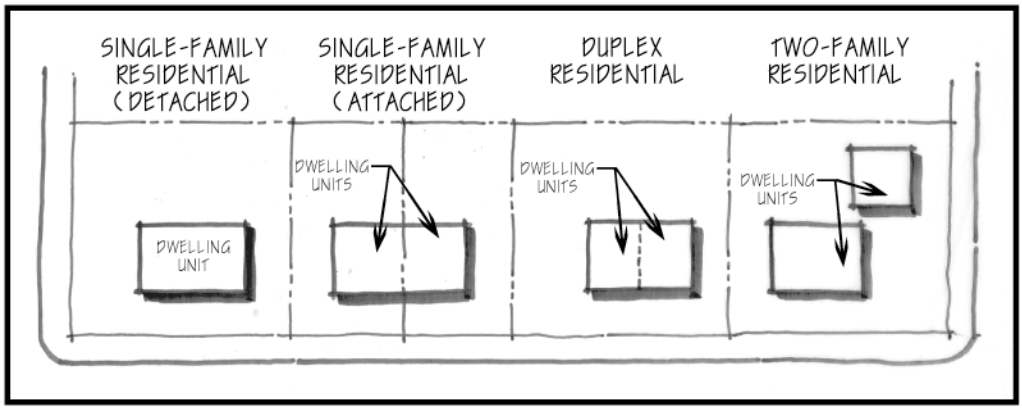
6. Drive-in Services: Uses that involve the sale of products or provision of services to occupants in vehicles.

7. Drainage: The removal of surface or ground water from land by drains, grading, or other means.

8. Drainage system: The system through which water flows from the land.

9. Driveway: A surfaced area providing vehicular access between a street and an off-street parking or loading area.

10. Dwelling Unit: One or more rooms, designed, occupied or intended for occupancy as a separate place of residence, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of one family, as defined in this section, maintaining a household.



2.8 <u>E</u>

1. Enclosed: A roofed or covered space fully surrounded by walls.

2. Existing Use: The use of a lot or structure at the time of the effective date of this Ordinance.

2.9 <u>F</u>

1. Family: An individual living alone, or either of the following groups living together as a single housekeeping unit and sharing common living, sleeping, cooking and eating facilities:

(a.) Any number of persons related by blood, marriage, adoption, guardianship or other duly authorized custodial relationship; or

(b.) Any unrelated group of persons consisting of:
(1.) Not more than four (4) persons; or

(2.) Not more than two (2) unrelated adults and their children, if any:

2. Fascia: A parapet-type wall used as part of the facade of a flat-roofed building and projecting no more than six feet from the immediately adjacent building face. Such a wall shall enclose at least three sides of the projecting flat roof and return to the parapet wall or the building.

3. Federal: Pertaining to the Government of the United States of America.

4. Fence: An enclosure or barrier, such as wooden posts, wire, iron, etc., used as a boundary, means of protection, privacy screening or confinement, but not including hedges, shrubs, trees, or other natural growth.

4. Frontage: The length of a property line of any one premise abutting and parallel to a public street, private way, or court from which access is permitted.

1.10 G

1. Garage: An accessory building or portion of a main building used primarily for storage of motor vehicles.

2. Grade: The elevation of the finished surface of ground, paving, or sidewalk adjacent to any building line.

(a) For buildings having walls facing one street only, the grade shall be the elevation of the ground at the center of the wall facing the street.

(b) For buildings having walls facing more than one street, the grade shall be the average elevation of the grades of all walls facing each street.

(c) For buildings having no walls facing a street, the grade shall be the average level of the finished surface of the ground adjacent to the exterior walls of the building.

3. Gross Floor Area (GFA): The total enclosed horizontal area of all floors of a building, measured to the inside surfaces of the exterior walls. This definition excludes the areas of mechanical equipment rooms, elevator shafts, airspaces above atriums, and enclosed off-street parking and loading areas serving a principal use.

2.11 H

1. Home Based Business/Home Occupation: An accessory occupational use conducted within a dwelling unit or accessory structure by its inhabitants, which is clearly incidental to the residential use of the dwelling unit or residential structure and does not change the residential character of its site.

2. Housing Unit or Dwelling Unit: A building or portion of a building arranged for and intended for occupancy as an independent living facility for one family, including permanent provisions for cooking.

2.12 I

1. Impervious coverage: The total horizontal area of all buildings, roofed or covered spaces, paved surface areas, walkways and driveways, and any other site improvements that decrease the ability of the surface of the site to absorb water, expressed as a percent of site area. The surface water area of swimming pools is excluded from this definition.

2.13 J

1. Junk: All old or scrap copper, brass, lead, or any other non-ferrous metal; old rope, rags, batteries, paper, trash, rubber debris, waste, used lumber or salvaged wood; dismantled or inoperable vehicles, unsafe vehicles, machinery and appliances or parts of such vehicles, machinery or appliances; iron, steel, or other old or scrap ferrous material; old discarded glass, tinware, plastic, or old discarded household goods or hardware; cut brush, including dead or decaying plant material, except a contained compost pile or neatly stacked firewood located in the side or rear yard.

2.14 K

2.15 L

1. Landscaped Area: The area within the boundaries of a given lot, site or common development consisting primarily of plant material, including but not limited to grass, trees, shrubs, vines, ground cover, and other organic plant materials; or grass paver masonry units installed such that the appearance of the area is primarily landscaped.

(a) Perimeter Landscaped Area: Any required landscaped area that adjoins the exterior boundary of a lot, site or common development.

(b) Interior Landscaped Area: Any landscaped area within a site exclusive of required perimeter landscaping.

2. Loading Area: An off-street area used for the loading or unloading of goods from a vehicle in connection with the use of the site on which such area is located.

3. Lot: A platted parcel of property with a separate and distinct number or other identifying designation which has been created, assigned and recorded in the Office of the Cherry County Register of Deeds. Each individual lot is subject to the provisions of a particular base Zoning District, and shall be subject to the frontage requirements of Section 4.11, except as provided in an approved Planned Unit Development.

(a) Corner Lot: A lot located at the junction of at least two streets, private ways or courts or at least two segments of a curved street, private way or court, at which the angle of intersection is no greater than 135 degrees.

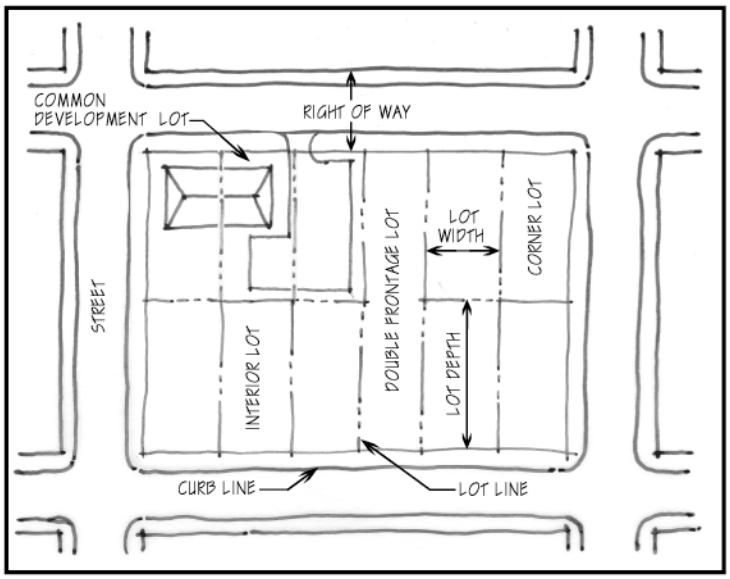
(b) Double Frontage Lot: A lot, other than a corner lot, having frontage on two non-intersecting streets, private ways or courts. Primary access shall be restricted on a double frontage lot to the minor of the two streets or to the front line as determined at time of platting or as defined by this ordinance. (Also known as a Through Lot)

(c) Interior Lot: A lot other than a corner lot whose sides do not abut a street.

(d) Common Development Lot: When two or more contiguous lots are developed as part of a single development, these lots may be considered a single lot for purposes of this ordinance.

(e) Lot of Record: A lot which is part of a subdivision, the deed of which has been recorded in the office of the County Recorder.

(f) Reverse Corner Lot: A corner lot, the side street line of which is substantially a continuation of the front line of the first lot to its rear.



4. Lot Area: The total horizontal area within the lot lines of a lot.

5. Lot Depth: The mean horizontal distance measured between the front and rear lot lines.

6. Lot Line: A property boundary line(s) of record that divides one lot from another lot or a lot from the public or private street right-of-way or easement.

(a) Front Lot Line: The lot line separating a lot and a public or private street right-of-way or easement.

1) For an interior lot, the lot line separating the lot from the right-of-way or easement.

2) For a corner lot, the shorter lot line abutting a public or private street or easement. In instances of equal line dimension, the front lot line shall be determined by the Zoning Administrator, or as may be noted on the final plat.

3) For a double frontage lot, the lot lines separating the lot from the right-of-way or easement of the more minor street. In cases where each street has the same classification, the front lot line shall be determined by the Zoning Administrator at the time of application for the original building permit for the lot, or as may be noted on the final plat.

(b) Rear Lot Line: The lot line that is opposite and most distant from the front line.

(c) Side Lot Line: Any lot line that is neither a front or rear lot line. A side lot line separating a lot from a street, private way or court is a street side lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

7. Lot Width: The horizontal distance measured between the side lot lines of a lot, at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.

2.16 <u>M</u>

1. Manufactured Home: A factory-built structure built under authority of 42 U.S.C. § 5403, that is required by federal law to display a seal from the United States department of housing and urban development, and was constructed on or after June 15, 1976.

A. Dwelling units built in compliance with the above may be placed in any zoning district where single-family dwelling units are permitted provided the unit meets the design standards for all single-family detached dwellings as specified in Article 17, Supplemental Use Regulations, Section 17.3(a).

B. Manufactured homes which do not meet all of the design standards in Section 17.3(a)., may be placed in a mobile home park.

2. Mixed Use Building: A building or structure that incorporates two or more use types within a single building or structure, provided that each use type is permitted within the individual Base Zoning District in which the building or structure is to be located.

3. Mixed Use Development: A single development that incorporates complementary land use types into a single development.

4. Mobile Homes: Any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Nebraska. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or Federal seals. Mobile homes may not be located anywhere in the City of Valentine other than in a mobile home park or manufactured home park.

5. Mobile Home Park: A site, lot, field, or tract of land upon which three or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available. The term *"mobile home park"* shall not be construed to include manufactured or mobile homes, buildings, tents, or other structures temporarily maintained by any individual, educational institution, or company on their own premises and used exclusively to house their own labor or students.

6. Modular Home: A factory-built structure which is manufactured to be used as a place of human habitation, is constructed to comply with the Nebraska state building code for modular factory-built structures, as adopted pursuant to Nebraska Revised Statue 71-1557, and must display the seal issued by the state building code commissioner.

A. Dwelling units built in compliance with the above may be placed in any zoning district where single-family dwelling units are permitted provided the unit meets the design standards for all single-family detached dwellings as specified in Article 17, Supplemental Use Regulations, Section 17.3 a.

7. Monument Sign: An on-premise freestanding sign with the appearance of a solid base.

2.17 N

1. Nonconforming Development: A building, structure, or improvement which does not comply with the regulations for its zoning district set forth by this Zoning Ordinance but which complied with applicable regulations at the time of construction.

2. Nonconforming Lot: A lot which was lawful prior to the adoption, revision, or amendment of this Zoning Ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the Zoning Ordinance. No action can be taken which would increase the non-conforming characteristics of the lot.

3. Nonconforming Sign: A sign that was legally erected prior to the adoption, revision, or amendment of this Zoning Ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of this Zoning Ordinance.

4. Nonconforming Structure: A structure which was lawful prior to the adoption, revision, or amendment of this Zoning Ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the Zoning Ordinance. No action can be taken which would increase the non-conforming characteristics of the structure.

5. Nonconforming Use: A land use which was lawful prior to the adoption, revision, or amendment of this Zoning Ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the Zoning Ordinance. No action can be taken which would increase the non-conforming characteristics of the land use.

6. Nuisance: An unreasonable and continuous invasion of the use and enjoyment of a property right which a reasonable person would find annoying, unpleasant, obnoxious, or offensive.

2.18 O

1. Off-site: Located outside the boundaries of the parcel that is the subject of an application.

2. Open Space: Area included on any site or lot that is open and unobstructed to the sky, except for allowed projections of cornices, overhangs, porches, balconies, or plant materials.

3. Outdoor Storage: The storage of materials, parts, or products that are related to the primary use of a site for a period exceeding three days.

4. Overlay District: A district established by this Ordinance that prescribes special regulations to be applied to a site only in combination with a base district.

5. Owner: An individual, firm, association, syndicate, partnership, or corporation having sufficient proprietary interest to seek development of land.

2.19 P

1. Parking Facility: An area on a lot and/or within a building, including one or more parking spaces, along with provision for access circulation, maneuvering, and landscaping, meeting the requirements of this Zoning Ordinance. Parking facilities include parking lots, private garages, and parking structures. Vehicle storage is a use distinct from parking.

2. Parking Spaces: An area on a lot and/or within a building, intended for the use of temporary parking of a personal vehicle. This term is used interchangeably with "parking stall". Each parking space must have a means of access to a public street. Tandem parking stalls in single-family detached, single-family attached, and townhouse residential uses shall be considered to have a means of access to a public street.

3. Paved: Hard-surfaced, that is, permanently surfaced with poured concrete, concrete pavers, or asphalt.

4. Performance Bond: A surety bond or cash deposit posted by a contractor or developer made out to the city in an amount equal to the full cost of the improvements. The bond amount shall be that of the contract price and shall be legally sufficient to secure to the City that said improvements will be constructed in accordance with the terms of the contract documents within a period specified by this Ordinance.

5. Permitted Use: A land use type allowed as a matter of right in a zoning district, subject only to special requirements of this Zoning Ordinance.

6. Planning Commission: The Planning Commission of the City of Valentine.

7. Planned Unit Development: A development of land which is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. The development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements.

8. Porch, Unenclosed: A roofed or unroofed open structure projecting from an exterior wall of a building and having no enclosed features more than thirty inches above its floor other than wire screening and a roof with supporting structure.

9. Premises: A lot, parcel, tract or plot of land, contiguous and under common ownership or control, together with the buildings and structure thereon.

10. Principal use: The main use of land or structures as distinguished from an accessory use.

11. Private Garage: A building for the storage of motor vehicles where no repair service facilities are maintained and where no motor vehicles are kept for rental or sale.

12. Property Line: The boundary between separate property ownerships, as recorded by the legal description of a parcel and defined by the Cherry County Register of Deeds. In subdivisions, property lines are usually but not in every case coincident with lot lines.

2.20 Q

2.21 R

1. Recreational Vehicle: A vehicle towed or self propelled on its own chassis or attached to the chassis of another vehicle and designed or used for temporary dwelling, recreational, or sporting purposes. Recreational vehicles include, but are not limited to, travel trailers; campers; motor coach homes; converted buses and trucks, boats, and boat trailers.

2. Regulation: A specific requirement set forth by this Zoning Ordinance that must be followed.

3. Remote Parking: A supply of off-street parking at a location not on the site of a given development.

4. Right-of-way: A strip of land, generally linear, occupied or intended to be occupied by a system that conveys people, traffic, fluids, utilities, or energy from one point to another. Rights-of-way may include streets and roads, crosswalks, bicycle paths, recreational trails, railroads or fixed guideway transit, electric transmission lines, gas pipelines, water mains, or sewer mains.

2.22 S

1. Screening: The method by which a view of one site from another adjacent site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, berms, or other features as may be permitted by the provisions of this ordinance.

2. Setback: The distance, as required by the minimum setback(s) which establishes the horizontal component(s) of the building envelope.

3. Sidewalk: A paved path provided for pedestrian use, usually located at the side of and detached from a road, but within the right-of-way.

4. Sign: A symbolic, visual device fixed upon a building, vehicle, structure, or parcel of land, which is intended to convey information about a product, business, activity, place, person, institution, candidate, or political idea.

5. Site: The parcel of land to be developed or built upon. A site may encompass a single lot; or a group of lots developed as a common development under the special and overlay districts provisions of this ordinance.

6. Site Plan: A plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features proposed for a specific parcel of land; and any other information as required by the City of Valentine.

7. Special Use Permit: An approval of a use with operating and/or physical characteristics different from those of permitted uses in a given zoning district which may, nonetheless, be compatible with those uses under special conditions and with adequate public review. Special uses are allowed in a zoning district only at the discretion of and with the explicit permission of the Zoning Board of Adjustment, as provided by Section 4.12 b. of this Ordinance.

8. State: The State of Nebraska.

9. Story: The portion of a building included between the surface of any floor and the surface of the next floor above it; if there is no floor above it, the space between such floor and the next ceiling above it. A half story is a story under a sloped roof, the wall heights of which on at least two opposite, exterior walls are less than four feet.

10. Street: Land dedicated for public use, from right-of-way line to right-of-way, which affords a primary means of access to the abutting property.

11. Street Yard: The distance between a lot line adjacent to a public street and the wall or façade of a building parallel to such lot line. If the building wall is not parallel to the lot line, the street yard depth shall be the distance between the street lot line and a parallel line that equals the average distance of the building wall or façade from the street lot line.

12. Structure: Any object constructed, erected or built, the use of which requires more or less permanent location on the ground and which is designed for the support, enclosure, shelter or protection of persons, animals, chattels or property of any kind, including but without limiting the generality of the foregoing, installations such as signs, billboards, radio towers and other facilities not designed for storage of property or occupancy by persons.

2.23 T

1. Townhouse: A dwelling unit having a common wall with or abutting one or more adjacent dwelling units in a townhouse structure, with its own front and rear access to the outside, and neither above nor below any other dwelling unit.

2. Townhouse Structure: A building formed by at least two and not more than twelve contiguous townhouses with common or abutting walls.

2.24 U

1. Use: The conduct of an activity, or the performance of a function or operation, on a site or in a building or facility.

2.25 V

1. Vacation: The official abandonment of public right-of-way or easement by the City in accordance with State law.

2. Variance: A modification of the application of certain regulations or provisions of this Ordinance by the Board of Adjustment, under the authority provided by this Ordinance and State Statutes.

3. Vehicle, motor: Any passenger vehicle, motorcycle, recreational vehicle, or truck that is propelled or drawn by mechanical power.

4. Vehicle, inoperable: Any motor vehicle, recreational vehicle, boat, trailer or semitrailer which lacks a current registration or component part which renders the vehicle unfit for legal use upon the public right-of-way.

2.26 W

2.27 X

2.28 Y

1. Yard; Required: That portion of a lot that lies between a lot line and the corresponding building setback line or the required landscape area. This area shall be unoccupied and unobstructed from the ground upward except as may be specifically provided for or required by this ordinance.

(a) Front Yard: The space extending the full width of a lot, lying between the front lot line and the front setback line. For a corner lot, the front yard shall normally be defined as that yard along a street which meets one of the following two criteria:

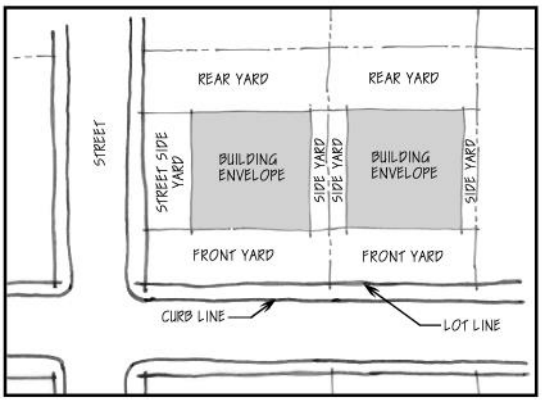
1) The yard along the blockface to which a greater number of structures are oriented; or

2) The yard along a street that has the smaller horizontal dimension.

(b) Rear Yard: The space extending the full width of a lot, lying between the rear lot line and the rear setback line.

(c) Side Yard: The space extending the depth of a lot from the front to rear lot lines, lying between the side yard setback line and the interior lot line.

(d) Street Side Yard: On a corner lot, the space extending from the front yard to the rear yard, between the street side yard setback line and the street side lot line.



2.29 Z

1. Zoning Administrator: The City Manager or his or her designee.

2. Zoning District: A designated specified land classification, within which all sites are subject to a unified group of use and site development regulations set forth in this Zoning Ordinance.

ARTICLE 3
USE TYPES

3.01 Purpose

Article Three shall be known as the Use Types. The purpose of the Use Types is to establish a classification system for land uses and a consistent set of terms defining uses permitted or conditionally permitted within various zoning districts. The Use Types section also provides a procedure for determining the applicable use type of any activity not clearly within any defined use type.

3.02 Determinations

a. Classification of Uses

In the event of any question as to the appropriate use types of any existing or proposed use or activity, the Zoning Administrator of the City of Valentine shall have the authority to determine the appropriate use type. A determination of the Zoning Administrator may be appealed to the Board of Adjustment. In making such determinations, the Zoning Administrator and Board of Adjustment shall consider such characteristics or specific requirements of the use in common with those included as examples of use types. Those examples, when included in use type descriptions, are intended to be illustrative, as opposed to exclusive lists.

b. Records

The Zoning Administrator shall make all such determinations of appropriate use types in writing. The record of the determination shall contain a report explaining the reasons for the determination.

3.03 Agricultural Use Types

Agricultural use types include the planting, cultivating, harvesting, and storage of grains, hay, or plants commonly grown in the City of Valentine or Cherry County; or the raising and feeding of livestock or poultry.

a. Horticulture

The growing of horticultural and floricultural specialties, such as flowers, shrubs, or trees intended for ornamental or landscaping purposes. This definition may include accessory retail sales under certain conditions. Typical uses include wholesale plant nurseries and greenhouses.

b. Crop Production

The raising and harvesting of tree crops, row crops or field crops on an agricultural or commercial basis. This definition may include accessory retail sales under certain conditions.

c. Animal Production

The raising of animals or production of animal products, such as eggs or dairy products on an agricultural or commercial basis on a site which is also used for crop production or where grazing of natural vegetation is the major feed source; or the raising of animals for recreational or educational use. Typical uses include grazing, ranching, free ranch dairy farming, and poultry farming.

d. Livestock Sales

The use of a site for the temporary confinement and exchange or sale of livestock. Typical uses include sales barns.

3.04 Residential Use Types

Residential use types include uses providing wholly or primarily non-transient living accommodations. They exclude institutional living arrangements providing 24-hour skilled nursing or medical care, forced residence, or therapeutic settings.

a. Single-Family Residential

The use of a site for one dwelling unit, occupied by one family. Mobile home units, as defined by this Section, are not a single-family residential use type.

1. Single-Family Residential (Detached): A single-family residential use in which one dwelling unit is located on a single lot, with no physical or structural connection to any other dwelling unit.

2. Single-Family Residential (Attached): A single-family residential use in which one dwelling unit is located on a single lot and is attached by a common vertical wall to only one other adjacent dwelling unit on another single lot.

b. Duplex Residential

The use of a legally-described lot for two dwelling units, each occupied by one family within a single building, excluding manufactured or mobile home units, but including modular housing units.

c. Townhouse Residential

The use of a site for three or more attached dwelling units, each occupied by one family and separated by vertical side walls extending from foundation through roof without openings. Each townhouse unit must have at least two exposed exterior walls.

d. Multiple-Family Residential

The use of a site for three or more dwelling units within one building not otherwise defined as townhouse units.

e. Downtown Residential

The use of upper levels above street level of a building within the Central Business District of the City of Valentine for single- or multiple-family residential uses.

f. Group Residential

The use of a site for the residence of more than three unrelated persons, not otherwise defined as a family, in which occupants are accommodated in rooms not defined as dwelling units. Group Residential uses are limited to facilities that are officially recognized or operated by a college or university, government agency, or nonprofit organization. Typical uses include fraternity or sorority houses and dormitories not incorporated into a College and University use type.

g. Lodging House

The use of a site for the residence of more than four unrelated persons, not otherwise defined as a family, in which occupants are accommodated in rooms not defined as dwelling units.

h. Mobile Home Park

Use of a site under single ownership for one or more mobile home units. Generally, the land on which mobile homes are placed in a Mobile Home Park is leased from the owner of the facility.

i. Retirement Residence

A building or group of buildings which provide residential facilities, provided that 75% of the residents are at least sixty years of age, or households headed by a householder of at least sixty years of age. A retirement residence may provide a range of residential building types and may also provide support services to residents, including but not limited to food service, general health supervision, medication services, housekeeping services, personal services, recreation facilities, and transportation services. The retirement residence may accommodate food preparation in independent units or meal service in one or more common areas. Retirement residences may include additional health care supervision or nursing care.

3.05 Civic Use Types

Civic use types include the performance of utility, educational, recreational, cultural, medical, protective, governmental, and other uses that are strongly vested with social importance.

a. Administration

Governmental offices providing administrative, clerical or public contact services that deal directly with the citizen, together with incidental storage and maintenance of necessary vehicles. Typical uses include federal, state, county, and city offices.

b. Cemetery

Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematoria, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

c. Clubs

Uses providing meeting, recreational, or social facilities for a private, nonprofit or noncommercial association, primarily for use by members and guests.

1. Clubs (Recreational): Clubs that provide indoor and/or outdoor athletic facilities, with or without social or meeting facilities. Typical uses include country clubs, private or nonprofit community or recreation centers, and private golf courses and driving ranges.

2. Clubs (Social): Clubs that provide primarily social or meeting facilities. Typical uses include private social clubs and fraternal organizations.

d. College and University Facilities

An educational institution of higher learning that offers a course of study designed to culminate in the issuance of a degree certified by a generally recognized accrediting organization.

e. Convalescent Services

A use providing bed care and inpatient services for persons requiring regular medical attention but excluding a facility providing surgical or emergency medical services and excluding a facility providing care for alcoholism, drug addiction, mental disease, or communicable disease. Typical uses include nursing homes.

f. Cultural Services

A library, museum, or similar registered nonprofit organizational use displaying, preserving and exhibiting objects of community and cultural interest in one or more of the arts and sciences.

g. Day Care Services (Limited)

This Use Type includes all classifications of day care facilities regulated by the State of Nebraska that operate providing care for not more than six (6) persons. This term includes nursery schools, preschools, day care centers for children or adults, and similar uses but excludes public and private primary and secondary educational facilities.

h. Day Care Services (General)

This Use Type includes all classifications of day care facilities regulated by the State of Nebraska that operate providing care for more than six (6) persons. This term includes nursery schools, preschools, day care centers for children or adults, and similar uses but excludes public and private primary and secondary educational facilities.

i. Detention Facilities

A publicly operated or contracted use providing housing and care for individuals legally confined, designed to isolate those individuals from the community.

j. Emergency Residential Services

A facility or use of a building to provide a protective sanctuary for victims of crime or abuse, including emergency housing during crisis intervention for victims of rape, abuse, or physical beatings.

k. Group Care Facility

A facility licensed or approved by the State of Nebraska or other appropriate agency, which provides for the care and short or long-term, continuous multi-day occupancy of more than four unrelated persons who require and receive therapy or counseling on site as part of an organized and therapeutic ongoing program for any of the purposes listed below. Such facilities shall exclude those uses defined as group homes. Group Care Facilities include facilities which provide for the:

1. Adaptation to living with, or rehabilitation from, the handicaps of physical disability.
2. Adaptation to living with, or rehabilitation from, the handicaps of emotional or mental disorder; or of mental retardation if such facility has an overnight occupancy of more than eight persons.
3. Rehabilitation from the effects of drug or alcohol abuse.
4. Supervision while under a program alternative to imprisonment, including but not limited to pre-release, work-release, and probationary programs.

l. Group Home

A facility licensed by the State of Nebraska in which no more than eight persons, not including resident managers or house parents, who are unrelated by blood, marriage, or adoption reside while receiving therapy, training, or counseling for the purpose of adaptation to living with or rehabilitation from cerebral palsy, autism, or intellectual developmental disorder.

m. Guidance Services

A use providing counseling, guidance, recuperative, or similar services to persons requiring rehabilitation assistance as a result of mental illness, alcoholism, detention, drug addiction, or similar condition on a daytime care basis.

n. Health Care

A facility providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an outpatient basis including emergency treatment, diagnostic services, training, administration and services to outpatients, employees, or visitors.

o. Hospital

A facility providing medical, psychiatric, or surgical service for sick or injured persons primarily on an inpatient basis, including emergency treatment, diagnostic services, training, administration, and services to patients, employees, or visitors.

p. Maintenance Facilities

A public facility, supporting maintenance, repair, vehicular or equipment servicing, material storage, and similar activities including street or sewer yards, equipment service centers, and similar uses having characteristics of commercial services or contracting or industrial activities.

q. Park and Recreation Services

Publicly owned and operated parks, playgrounds, recreation facilities including publicly-owned community centers, and open spaces.

r. Postal Facilities

Postal services, including post offices, bulk mail processing or sorting centers operated by the United States Postal Service.

s. Primary Educational Facilities

A public, private, or parochial school offering instruction at the elementary school level in the branches of learning study required to be taught in schools within the State of Nebraska.

t. Public Assembly

Facilities owned and operated by a public agency, charitable nonprofit or private organization accommodating major public assembly for recreation, sports, amusement, or entertainment purposes. Typical uses include civic or community auditoriums, sports stadiums and arenas, convention facilities, fairgrounds, incidental sales, and exhibition facilities.

u. Religious Assembly

A use located in a permanent building and providing regular organized religious worship and religious education incidental thereto (excluding private primary or private secondary educational facilities, community recreational facilities, day care facilities, and incidental parking facilities). A property tax exemption obtained pursuant to Title 350, Chapter 40-005 of the Nebraska Administrative Code shall constitute prima facie evidence of religious assembly use.

v. Safety Services

Facilities for conduct of public safety and emergency services including police and fire protection services and emergency medical and ambulance services.

w. Secondary Educational Facilities

A public, private, or parochial school offering instruction at the junior high or high school level in the branches of learning and study required to be taught in the schools of the State of Nebraska.

x. Utilities

Any above ground structures or facilities, other than lines, poles, and other incidental facilities, used for the production, generation, transmission, delivery, collection, or storage of water, sewage, electricity, gas, oil, energy media, communications, electronic or electromagnetic signals, or other services which are precedent to development and/or use of land.

3.06 Office Use Types

Office use types include uses providing for administration, professional services, and allied activities. These uses often invite public clientele but are more limited in external effects than commercial uses.

a. General Offices

Use of a site for business, professional, or administrative offices who may invite clients from both local and regional areas. Typical uses include real estate, insurance, management, travel, or other business offices; organization and association offices; or professional offices.

b. Financial Services

Provision of financial and banking services to consumers or clients. Walk-in and drive-in services to consumers are provided on site. Typical uses include banks, savings and loan associations, credit unions, savings banks, and loan companies. An ATM (Automatic Teller Machine) that is not accompanied on-site by an office of its primary financial institution is considered within the Personal Services Use Type.

c. Medical Offices

Use of a site for facilities which provide diagnoses and outpatient care on a routine basis, but which does not provide prolonged, in-house medical or surgical care. Medical offices are operated by doctors, dentists, or similar medical practitioners licensed for practice in the State of Nebraska.

3.07 Commercial Use Types

Commercial uses include the sale, rental, service, and distribution of goods; and the provision of services other than those classified under other use types.

a. Adult Entertainment Businesses

Any business activity that offers the opportunity to view specified sexual activities or view and touch specified anatomical areas in a manner that lacks serious literary artistic, political, or scientific value. This category includes the sale or viewing of visual or print materials that meet these criteria if the sale of such material constitutes more than 20% on the sales or retail floor area of the establishment. For the purposes of this definition, specified anatomical areas include the following if less than opaquely covered: human genitals, the pubic region, public hair, or the female breast below a point immediately above the top of the areola. Specified sexual activities include any of the following conditions:

1. Human genitals in a state of sexual stimulation or arousal.
2. Acts or representations of acts of human masturbation, sexual intercourse with humans, or animals, oral sex, or flagellation.
3. Fondling or erotic touching of human genitals, pubic region, buttock, or female breast.

4. Excretory functions as a part of, or in connection with, any activities set forth in (1) through (3) above.

Typical uses include retail services or stores which are distinguished by an emphasis on activities or material that emphasize primarily sexual content in the inventory and marketing practices; businesses which offer live performances characterized by exposure of specified anatomical areas; and adult theaters. Businesses may be classified as adult entertainment businesses without regard to service of alcoholic beverages.

b. Agricultural Sales and Service

Establishments or places of business engaged in sale from the premises of feed, grain, fertilizers, farm equipment, pesticides and similar goods or in the provision of agriculturally related services with incidental storage on lots other than where the service is rendered. Typical uses include nurseries, hay, farm implement dealerships, feed and grain stores, and tree service firms.

c. Automotive and Equipment Services

Establishments or places of business primarily engaged in sale and/or service of automobiles, trucks, or heavy equipment. The following are considered automotive and equipment use types:

1. Automobile Auction Lots: Sale of motor vehicles through a process of periodic auctions or bid procedures. Automobile auction lots usually include large on-site storage areas of motor vehicles and lack showrooms, auto repair facilities and other structures and facilities that are typical of new car dealerships.

2. Automotive Rental and Sales: Sale or rental of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles or boats, including incidental storage, maintenance, and servicing. Typical uses include new and used car dealerships; motorcycle dealerships; and boat, trailer, and recreational vehicle dealerships.

3. Auto Services: Provision of fuel, lubricants, parts and accessories, and incidental services to motor vehicles; and washing and cleaning and/or repair of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. Typical uses include service stations, car washes, muffler shops, auto repair garages, tire sales and installation, wheel and brake shops, and similar repair and service activities but exclude dismantling, salvage, or body and fender repair services.

4. Body Repair: Repair, painting, or refinishing of the body, fender, or frame of automobiles, trucks, motorcycles, motor homes, recreational vehicles, boats, tractors, construction equipment, agricultural implements, and similar vehicles or equipment. Typical uses include body and fender shops, painting shops, and other similar repair or refinishing garages.

5. Equipment Rental and Sales: Sale or rental of trucks, tractors, construction equipment, agricultural implements, mobile homes, and similar heavy equipment, including incidental storage, maintenance, and servicing. Typical uses include truck dealerships, construction equipment dealerships, and mobile home sales establishments.

6. Equipment Repair Services: Repair of trucks, tractors, construction equipment, agricultural implements, and similar heavy equipment. Typical uses include truck repair garages, tractor and

farm implement repair services, and machine shops, but exclude dismantling, salvage, or body and fender repair services.

d. Bed and Breakfast

A lodging service that provides overnight or short-term accommodations to guests or visitors, usually including provision of breakfast. Bed and breakfasts are usually located in large residential structures that have been adapted for this use. For the purpose of this definition, bed and breakfasts are always owned and operated by the resident owner or resident manager of the structure, include no more than six units, and accommodate each guest or visitor for no more than 14 consecutive days during any one month period.

e. Business Support Services

Establishments or places of business primarily engaged in the sale, rental or repair of equipment, supplies and materials or the provision of services used by office, professional and service establishments to the firms themselves but excluding automotive, construction and farm equipment. Typical uses include office equipment and supply firms, small business machine repair shops or hotel equipment and supply firms, messenger and delivery services, custodial or maintenance services, and convenience printing and copying.

f. Business or Trade Schools

A use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as a home occupation, college or university, or public or private educational facility.

g. Campground

Facilities providing camping or parking areas and incidental services for travelers in recreational vehicles or tents, which accommodate each guest or visitor for no more than 14 consecutive days during any one month period.

h. Commercial Recreation (Controlled Impact)

Private businesses, or other organizations which may or may not be commercial by structure or by nature, which are primarily engaged in the provision or sponsorship of sports, entertainment, or recreation for participants or spectators. Controlled Impact Commercial Recreation uses typically take place entirely within enclosed buildings or, when outdoors, have limited effects related to lighting, hours of operation, or noise. Typical uses include theaters, private dance halls, billiard or bowling centers, game arcades, indoor skating facilities, miniature golf courses, and private golf courses.

i. Commercial Recreation (High Impact)

Private businesses, or other organizations which may or may not be commercial by structure or by nature, which are primarily engaged in the provision or sponsorship of sports, entertainment, or recreation for participants or spectators. High Impact Commercial Recreation uses are typically located outdoors and have operating effects caused by lighting, noise, traffic, or hours of operation that create

substantial environmental impacts. Typical uses include shooting ranges, lighted driving ranges, go-kart tracks, amusement parks, race tracks, and private baseball complexes.

j. Communications Services

Establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms but excludes those classified as Utilities. Typical uses include television studios, telecommunication service centers, telegraph service offices, or film and sound recording facilities. Broadcast and communications towers, and their minor ancillary ground structures are classified as "Miscellaneous Use Types."

k. Construction Sales and Services

Establishments or places of business primarily engaged in the retail or wholesale sale, from the premises, of materials used in the construction of buildings or other structures other than retail sale of paint, fixtures and hardware. This use type excludes those uses classified under Automotive and Equipment Services. Typical uses include building materials sales, or tool and equipment rental or sales.

l. Consumer Services

Establishments that provide services, primarily to individuals and households, but excluding Automotive Use Types. Typical uses include automated banking machines, appliance repair shops, watch or jewelry repair shops, or musical instrument repair shops.

m. Convenience Storage/Mini-Storage

Storage services primarily for personal effects and household goods within enclosed storage areas having individual access but excluding use of such areas as workshops, hobby shops, manufacturing, or commercial activity. Typical uses include mini-warehousing.

n. Food Sales

Establishments or places of business primarily engaged in the retail sale of food or household products for home consumption. Food Sales establishments may include the sale of non-food items. Typical uses include groceries, delicatessens, meat markets, retail bakeries, and candy shops.

1. Convenience Food Sales: Establishments occupying facilities of less than 10,000 square feet; and characterized by sales of specialty foods or a limited variety of general items, and the sales of fuel for motor vehicles.

2. Limited Food Sales: Establishments occupying facilities of less than 10,000 square feet; and characterized by sales of specialty foods or a limited variety of general items, but excluding the accessory sale of fuel for motor vehicles. Typical uses include delicatessens, meat markets, retail bakeries, candy shops, and small grocery stores.

3. General Food Sales: Establishments selling a wide variety of food commodities and related items, using facilities larger than 10,000 square feet. Typical uses include grocery stores and locker plants.

o. Funeral Services

Establishments engaged in undertaking services such as preparing the human dead for burial, and arranging and managing funerals. Typical uses include funeral homes or mortuaries.

p. Gaming Facilities

Establishments engaged in the lawful, on-site operation of games of chance that involve the risk of money for financial gain by patrons. Gaming facilities shall include the accessory sale of liquor and food, pursuant to regulations of the City of Valentine and/or the State of Nebraska.

q. Kennels

Boarding and care services for dogs, cats and similar small mammals or large birds; or any premises on which more than four animals included under this definition over four months of age are kept and maintained. Typical uses include boarding kennels, ostrich raising facilities; pet motels, or dog training centers.

r. Laundry Services

Establishments primarily engaged in the provision of laundering, cleaning or dyeing services other than those classified as Personal Services. Typical uses include bulk laundry and cleaning plans, diaper services, or linen supply services.

s. Liquor Sales

Establishments or places of business engaged in retail sale for off-premise consumption of alcoholic beverages. Typical uses include liquor stores, bottle shops, or any licensed sales of liquor, beer or wine for off-site consumption.

t. Lodging

Lodging services involving the provision of room and/or board, but not meeting the classification criteria of Bed and Breakfasts. Typical uses include hotels, apartment hotels, and motels.

u. Pawn Shop

A business that loans money on deposit or pledge of personal property or other thing of value, or that deals in the purchasing of personal property or other things of value, on condition of selling the same back at a stipulated price, or that receives actual possession of personal property as security for loans with or without a bill of sale.

v. Personal Improvement Services

Establishments primarily engaged in the provision of informational, instructional, personal improvements and similar services of a nonprofessional nature. Typical uses include driving schools,

health or physical fitness studios, music schools, reducing salons, dance studios, handicraft and hobby instruction.

w. Personal Services

Establishments or places of business primarily engaged in the provision of services of a personal nature. Typical uses include beauty and barber shops; seamstress, tailor, or shoe repair shops; photography studios; television or electronics repair; or dry cleaning stations serving individuals and households. Personal Services include establishments providing for the administration of massage or massage therapy carried out by persons licensed by the State of Nebraska when performing massage services as a part of the profession or trade for which licensed or persons performing massage services under the direction of a person so licensed; or persons performing massage services or therapy pursuant to the written direction of a licensed physician.

x. Pet Services

Retail sales, incidental pet health services, and grooming and boarding, when totally within a building, of dogs, cats, birds, fish, and similar small animals customarily used as household pets. Typical uses include pet stores, small animal clinics, dog bathing and clipping salons, and pet grooming shops, but exclude uses for livestock and large animals.

y. RV (Recreation Vehicle) Storage

Establishments that include the storage and/or display of boats, campers, and motorized recreational vehicles for the purpose of rental or sale.

z. Research Services

Establishments primarily engaged in research of an industrial or scientific nature. Typical uses include electronics research laboratories, space research and development firms, testing laboratories, or pharmaceutical research labs.

aa. Restaurants

A use engaged in the preparation and retail sale of food and beverages; including the sale of alcoholic beverages when conducted as a secondary feature of the use.

1. Restaurant (Drive-in or Fast Food): An establishment that principally supplies food and beverages in disposable containers and is characterized by high automobile accessibility and on-site accommodations, self-service, and short stays by customers.

2. Restaurant (General): An establishment characterized by table service to customers and/or accommodation to walk-in clientele, as opposed to Drive-in or Fast Food Restaurants. Typical uses include cafes, coffee shops, and restaurants.

bb. Retail Services

Sale or rental with incidental service of commonly used goods and merchandise for personal or household use but excludes those classified more specifically by these use type classifications. Typical

uses include department stores, apparel stores, furniture stores, or establishments providing the following products or services:

Household cleaning and maintenance products; drugs, cards, stationery, notions, books, tobacco products, cosmetics, and specialty items; flowers, plants, hobby materials, toys, and handcrafted items; apparel jewelry, fabrics and like items; cameras, photograph services, household electronic equipment, records, sporting equipment, kitchen utensils, home furnishing and appliances, art supplies and framing, arts and antiques, paint and wallpaper, hardware, carpeting and floor covering; interior decorating services; office supplies; mail order or catalog sales; bicycles; and automotive parts and accessories (excluding service and installation). General Retail Services include:

1. Limited Retail Services: Establishments providing retail services, occupying facilities of 3,000 square feet or less. Typical establishments provide for specialty retailing or retailing oriented to Valentine and its surrounding vicinity.

2. Medium Retail Services: Establishments providing retail services, occupying facilities between 3,001 and 10,000 square feet in a single establishment or multi-tenant facility. Typical establishments provide for specialty retailing or general purpose retailing oriented to Valentine and its surrounding vicinity.

3. Large Retail Services: Establishments providing retail services, occupying facilities greater than 10,001 square feet in a single establishment or multi-tenant facility. Typical establishments provide for specialty retailing or general retailing oriented to Valentine and its surrounding vicinity.

cc. Stables and/or Riding Academies

The buildings, pens and pasture areas used for the boarding and feeding of horses, llamas, or other equine not owned by the occupants of the premises. This use includes instruction in riding, jumping, and showing or the riding of horses/equine for hire.

dd. Surplus Sales

Businesses engaged in the sale, including sale by auction, of used items or new items which are primarily composed of factory surplus or discontinued items. Surplus sales uses sometimes include regular outdoor display of merchandise. Typical uses include flea markets, auction houses, factory outlets, or merchandise liquidators.

ee. Taverns

A use engaged in the preparation and retail sale of alcoholic beverages for consumption on the premises, including taverns, bars, cocktail lounges, and similar uses other than a restaurant as that term is defined in this section.

ff. Trade Services

Establishments or places of business primarily engaged in the provision of services that are not retail or primarily dedicated to walk-in clientele. These services often involve services to construction or building trades and may involve a small amount of screened, outdoor storage in appropriate zoning districts.

Typical uses include shops or operating bases for plumbers, electricians, or HVAC (heating , ventilating, and air conditioning) contractors.

gg. Travel Centers

Facilities that provide for the sale of fuel, provisions, supplies to motorists, including operators of over-the-road trucks, in which less than 30% of the total site area is devoted to the servicing, accommodation, parking, or storage of over-the-road trucks. The calculation of these areas includes but is not limited to fuel islands for Diesel fuel, truck washing facilities, truck parking areas, and associated maneuvering areas. Travel centers include a mix of uses, including food sales, general retail services, auto and equipment services, and restaurants, and are typically located along or near Interstate Highways or other principal State and Federal designated highway routes. See also Convenience Food Sales.

hh. Truck Stops

Facilities that provide for the sale of fuel, provisions, supplies to motorists, including operators of over-the-road trucks, in which 30% or more of the total site area is devoted to the servicing, accommodation, parking, or storage of over-the-road trucks. The calculation of these areas includes but is not limited to fuel islands for Diesel fuel, truck washing facilities, truck parking areas, and associated maneuvering areas. Travel centers include a mix of uses, including food sales, general retail services, auto and equipment services, and restaurants, and are typically located along or near Interstate Highways or other principal State and Federal designated highway routes. See also Convenience Food Sales.

ii. Vehicle Storage (Short-term)

Short-term storage of operating or non-operating vehicles for a period of no more than 21 days. Typical uses include storage of private parking tow-a-ways or impound yards but exclude dismantling or salvage. Long-term storage beyond 21 days constitutes an Industrial Use Type.

jj. Veterinary Services (General)

Veterinary services and hospitals for small animals. Typical uses include pet clinics, dog and cat hospitals, pet cemeteries and crematoria, and veterinary hospitals for livestock and large animals.

kk. Veterinary Services (Large Animal)

Veterinary services and hospitals for large animals such as cows, bulls, horses, and other livestock. Typical uses include veterinary hospitals for livestock and large animals.

3.08 Parking Use Types

a. Off-Street Parking

Parking use types include surface parking of motor vehicles on a temporary basis within a privately or publicly owned off-street parking facility.

b. Parking Structure

The use of a site for a multilevel building which provides for the parking of motor vehicles on a temporary basis, other than as an accessory to a principal use on the same site.

3.09 Industrial Use Types

Industrial use types include the on-site extraction or production of goods by nonagricultural methods, and the storage and distribution of products.

a. Agricultural Industry

Establishments which include the storage, manufacture, sale, or distribution of agricultural supplies or products that create major external effects, including substantial truck or rail traffic and/or significant potential for hazard. Typical uses include grain elevators, storage of agricultural chemicals such as anhydrous ammonia. Agricultural industries do not include retailers of farm equipment or other, generally non-hazardous agricultural supplies.

b. Construction Yards

Establishments housing facilities of businesses primarily engaged in construction activities, including incidental storage of materials and equipment on lots other than construction sites. Typical uses are building contractor's yards.

c. Custom Manufacturing

Establishments primarily engaged in the on-site production of goods by hand manufacturing, within enclosed structures, involving:

1. The use of hand tools, or

2. The use of domestic mechanical equipment not exceeding 2 horsepower, or

3. A single kiln not exceeding 8 KW or equivalent.

This category also includes the incidental direct sale to consumers of only those goods produced on site. Typical uses include ceramic studios, custom jewelry manufacturing, and candle making shops.

d. Junkyard or Salvage Yard

Any place not fully enclosed in a building, excluding a salvage yard, which is used in whole or in part for the storage or deposit of junk encompassing either (a) an area of 200 square feet or more, or (b) two or more inoperable motor vehicles, or used parts and materials thereof, which taken together equal the bulk of two or more motor vehicles.

e. Light Industry

Establishments engaged in the manufacture or processing of finished products from previously prepared materials, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution. These establishments are characterized by having no major

external environmental effects across property lines and include no unscreened or unenclosed outdoor storage. Typical uses include commercial bakeries, dressed beef processing plants, soft drink bottling, apparel assembly from fabrics, electronics, manufacturing, print shops and publishing houses.

f. General Industry

Enterprises engaged in the processing, manufacturing, compounding, assembly, packaging, treatment or fabrication of materials and products from prepared materials or from raw materials without noticeable noise, odor, vibration, or air pollution effects across property lines, but often including outdoor storage of materials or products.

g. Heavy Industry

Enterprises involved in the basic processing and manufacturing of products, predominately from raw materials, with noticeable noise, odor, vibration, or air pollution effects across property lines; or a use or process engaged in the storage of or processes involving potentially or actually hazardous, explosive, flammable, radioactive, or other commonly recognized hazardous materials.

h. Recycling Collection

Any site which is used in whole or part for the receiving or collection of any post-consumer, non-durable goods including, but not limited to glass, plastic, paper, cardboard, aluminum, tin, or other recyclable commodities.

i. Recycling Processing

Any site which is used for the processing of any post-consumer, non-durable goods including, but not limited to glass, plastic, paper, cardboard, aluminum, tin, or other recyclable commodities.

j. Resource Extraction

A use involving on-site extraction of surface or subsurface mineral products or natural resources, excluding site grading for a specific construction project or preparation of a site for subsequent development. Typical uses are quarries, borrow pits, sand and gravel operations, mining, and removal of dirt for off-site use.

k. Vehicle Storage (Long-term)

Long-term storage of operating or non-operating vehicles for a period exceeding 21 days. Typical uses include storage of private parking tow-a-ways or impound yards but exclude dismantling or salvage. Long-term storage of 21 days or less constitutes a Commercial Use Type.

l. Warehousing (Enclosed)

Uses including storage, distribution, and handling of goods and materials within enclosed structures. Typical uses include wholesale distributors, storage warehouses, and van and storage companies.

m. Warehousing (Open)

Uses including open air storage, distribution, and handling of goods and materials. Typical uses include monument yards, grain elevators, and open storage.

3.10 Transportation Use Types

Transportation use types include the use of land for the purpose of providing facilities supporting the movement of passengers and freight from one point to another.

a. Aviation (General)

Airports, including take-off and landing fields, aircraft parking and service facilities, and related facilities for operation, service, fueling, repair, storage, charter, sales, and rental of aircraft, and including activities directly associated with the operation and maintenance of airport facilities and the provision of safety and security. Typical uses include private or municipal airports.

b. Aviation (Private)

Take-off or landing strips or fields within a parcel generally put to other uses and primarily used for the convenience of the owner of the parcel. Typical uses include private airstrips within a large property.

c. Railroad Facility

Fixed railroad facilities, including switching yards, equipment servicing facilities, and freight terminal facilities, but not including normal right-of-way.

d. Transportation Terminal

Facility for loading, unloading, and interchange of passengers, baggage, and incidental freight or package express, including bus terminals, railroad stations, public transit facilities.

d. Truck Terminal

A facility for the receipt, transfer, short term storage, and dispatching of goods transported by truck.

3.11 Miscellaneous Type Uses

a. Alternative Energy Production Devices

The use of a site for the production of energy utilizing methods that do not involve the oxidation, combustion, or fission of primary materials. Typical uses include solar collector fields, geothermal energy installations, or water-powered mills or generating facilities.

b. Amateur Radio Tower

A structure(s) for the transmission or broadcasting of electromagnetic signals by FCC licensed Amateur Radio operators.

c. Communications Tower

A structure(s) for the transmission or broadcasting of radio, television, radar, or microwaves, ordinarily exceeding the maximum height permitted in its zoning district. Typical uses include broadcasting towers and cellular communications towers.

d. Construction Batch Plant

A temporary demountable facility used for the manufacturing of cement, concrete, asphalt, or other paving materials intended for specific construction projects.

e. Landfill A (Non-putrescible Solid Waste Disposal)

The use of a site as a depository for solid wastes that do not readily undergo chemical or biological breakdown under conditions normally associated with land disposal operations. Typical disposal material would include ashes, concrete, paving wastes, rock, brick, lumber, roofing materials and ceramic tile.

f. Landfill B (Putrescible and Non-putrescible Solid Waste Disposal)

The use of a site as a depository for any solid waste except hazardous and toxic waste as defined by the Federal Environmental Protection Agency and/or the State of Nebraska. Typical disposal material would include non-putrescible wastes; and putrescible wastes such as vegetation, tree parts, agricultural wastes (garbage) and manure.

g. Wind Energy Conservation System (WECS)

Any device that converts wind energy to a form of usable energy, including wind charges, windmills or wind turbines.

ARTICLE 4
ZONING DISTRICT REGULATIONS

4.1 Purpose

Zoning Districts are established in the Zoning Regulations to promote compatible land use patterns and to establish site development regulations appropriate to the purposes and specific nature of each district.

4.2 Establishment of Districts

The following base districts and overlay districts are hereby established. These districts correspond to the Land Use Districts established by the Valentine Comprehensive Plan.

BASE ZONING DISTRICTS	DISTRICT NAMES
TA	Transitional Agricultural District
R-1	Low-Density Residential District
R-2	Medium-Density Residential District
R-3	High-Density Residential District
R-MH	Mobile Home Residential District
C-1	Highway Commercial District
C-2	Business District
I-1	Limited Industrial District
I-2	General Industrial District

OVERLAY AND SPECIAL DISTRICTS

PUD	Planned Unit Development Overlay District
AV	Aviation Overlay District

4.3 Application of Districts

A base district designation shall apply to each lot or site within the city and its planning jurisdiction. A site must be in one base district.

Overlay and special districts may be applied to any lot or site or any portion thereof, in addition to a base district designation.

4.4 Hierarchy

References in the Zoning Ordinance to less intensive or more intensively urbanized districts shall be deemed to refer to those agricultural, residential, commercial, and industrial base zoning

districts established in Section 4.2, and shall represent a progression from the TA Transitional Agricultural District as the least intensively urbanized to the I-2 General Industrial District as the most intensively urbanized.

4.5 Development Regulations

For each Zoning District, permitted uses are set forth in the Use Matrix. Individual sections describe the purpose and specific development regulations for each zoning district. Supplemental Regulations may affect specific land uses or development regulations in each zoning district. The applicable Supplemental Regulations are noted in Use Matrix. Permitted accessory uses are indicated in Section 17.10 Supplemental Use Regulations: Accessory Uses.

4.6 Zoning Map

a. Adoption of Zoning Map

Boundaries of zoning districts established by this Zoning Regulations shall be shown on the Zoning Map maintained by the City Clerk. This map shall bear the signature of the City Council President attested by the City Clerk under the certification that this is the Official Zoning Map referred to by this Ordinance. This map, together with all legends, references, symbols, boundaries, and other information, shall be adopted as a part of, and concurrent with these Regulations. Said Zoning Map shall be on file with the City Clerk and shall be readily accessible to the public at Valentine City Hall.

b. Changes to the Zoning Map

The City Council may from time to time adopt a new official zoning map which shall supersede the prior official zoning map, in the event that the official zoning map becomes damaged or destroyed; or for purposes of clarity due to a number of boundary changes, or to correct drafting errors or omissions; provided, however, that any such adoption shall not have the effect of amending the original Zoning Ordinance or any subsequent amendment thereof.

4.7 Interpretation of District Boundaries

The following rules shall apply in determining the boundaries of any zoning district shown on the Zoning Map.

a. Where district boundaries are indicated as approximately following lot lines, such lot lines shall be considered the district boundaries.

b. Where district boundaries are indicated as within street or alley, railroad, streams or creeks, or other identifiable rights-of-way, the centerline of such rights-of-way shall be deemed the district boundary.

c. Where a district boundary divides a property, the location of the boundary shall be determined by the use of the scale appearing on the Zoning Map.

d. Where district boundaries are indicated as approximately following corporate limits, such corporate limits shall be considered the district boundaries.

e. Where district boundaries are indicated as approximately following section lines, quarter section lines, or quarter-quarter section lines, such lines shall be considered the district boundaries.

f. Boundaries not capable of being determined as set forth in 4.7a through e shall be as dimensioned on the official Zoning Map or if not dimensioned shall be determined by the scale shown on the map.

4.8 Vacation of Streets and Alleys

Whenever a public street or alley is vacated, the zoning district adjoining each side of such right-of-way shall be extended out to the former centerline.

4.9 Annexation of Territory

All unimproved or agricultural territory that may hereafter be annexed to the City shall be considered as lying in the Transitional Agricultural District until such classification shall be changed as provided by this ordinance. Any improved property that is annexed into the city shall be zoned according to the zoning district that most nearly describes either its present use or the use proposed by Valentine's Comprehensive Plan. This zoning shall be established by the Planning Commission and the City Council at the time of annexation.

4.10 Required Conformance

Except as specified in this chapter, no building or structure shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used, which does not comply with all of the district regulations established by this title for the district in which the building or land is located.

4.11 Required Frontage

Except as otherwise provided for, every building shall be constructed or erected upon a lot or parcel of land which abuts upon a public street or permanent easement of access to a public street.

4.12 Use Matrix: Levels of Permitted Uses

Within zoning districts in Valentine, different uses are permitted with different conditions. These are displayed in the Use Matrix. Levels of permission include:

a. Uses which are permitted by right. These uses are permitted subject to issuance of a occupancy permit by the Zoning Administrator, subject only to compliance with all regulations of this Ordinance. Uses permitted by right might be subject to supplemental regulations contained in this Ordinance. These uses are indicated in the Use Matrix by a "P" in the applicable cell.

b. Special Uses (Conditional Uses). These uses are subject to approval of a Special Use Permit by the Planning Commission, following the procedure set forth in Section 19.17. These uses are indicated in the Use Matrix by a "S" in the applicable cell.

4.13 Guide to Site Development Regulators

The regulators set forth in the tables in Articles 5 through 13 establish the limits and requirements for most development in the City of Valentine and its extra-territorial jurisdiction. This section is intended to provide guidance for applying the regulators contained in these tables.

a. Site area per housing unit. This indicates the gross land area per unit within a residential development. For example, a 40-lot subdivision on a 10-acre (435,600 square foot tract) will have a site area per unit of 10,890 square feet. Site area per unit, which measures gross density, may differ from minimum lot size.

b. Minimum lot area. This indicates the minimum size of a legally described and recorded parcel upon which development can take place. As noted above, minimum lot area and site area per unit may not be the same.

c. Minimum lot width. This is the required minimum distance connecting at points along opposite side lot lines, measured at the required front yard setback. For example, the lot width of an irregular lot in a district requiring a 25-foot front yard setback is determined by:

1. Locating the points along each side lot line at a distance of 25 feet back from the front property line.

2. Drawing a line connecting these two points.

3. Measuring the length of this line. The length is the lot width.

d. Minimum yards. These define the required setbacks of buildings from front, side, and rear property lines. While the yard requirements apply to a majority of development, the Ordinance provides for a number of exceptions. Some of these include:

1. Planned Unit Developments. Front yard setbacks can be varied within Planned Unit Developments, which are reviewed and approved by the City Council after a recommendation from the Planning Commission.

2. Major streets. The City may require greater than normal setbacks along segments of the city's arterial street system, as defined in the comprehensive development plan.

3. Flexibility provided by Supplemental Development Regulations. Section 18.7 establishes supplemental regulations, many of which provide flexibility or variations in setback regulations for specific contexts.

4. Maximum setbacks. Some specific zoning districts provide maximum as well as minimum setbacks. These setbacks establish "build-to" lines that may be necessary to protect the appearance and character of special urban districts.

e. Maximum height. Height normally measures the vertical distance from the established grade to the highest point of a building. However, as established by the definition of height, the point of measurement may vary for different types of buildings and roof slopes.

f. Minimum Depth of Landscaping Adjacent to Street Right-of-Ways. This establishes the depth of landscaping that must be provided on private property adjacent and in from the right-of-way line. Thus, if the required minimum depth is fifteen feet, a project must landscape the first fifteen feet of its site back from the right-of-way line.

g. Minimum buffer yard requirements. This establishes the depth of a buffer yard that must be provided by intensive land uses adjacent to primarily residential land uses in residential zoning districts.

h. *Supplemental use regulations.* Certain permitted uses require satisfaction of specific requirements in order to function successfully in their urban or rural contexts. These supplemental requirements are set forth in Article 17. These requirements are cross-referenced in the "Supplementary Regulations" column of the Use Matrix.

Table 4.1: Use Matrix: Agricultural and Residential Types (TA through I-2 Districts)

Use Types	TA	R-1	R-2	R-3	R-MH	C-1	C-2	I-1	I-2
Agricultural Uses									
Horticulture	**P**	**P**				**P**		**P**	**P**
Crop Production**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**
Animal Production**	**P**					**E**			
Livestock Sales	**S**							**S**	**S**
Residential Uses									
Single-Family Detached**	**P**	**P**	**P**	**P**	**E**	**E**	**E**		
Single-Family Attached**	**P**	**P**	**P**	**P**	**E**	**E**	**E**		
Duplex	**P**	**P**	**P**	**P**	**E**	**E**	**E**		
Townhouse		**P**	**P**	**P**			**E**		
Multiple-Family			**P**	**P**		**S**	**E**		
Downtown Residential							**P**		
Group Residential **			**P**	**P**					
Mobile Home Park **					**P**				
Retirement Residential		**E**	**P**	**P**					

P Permitted by right or by right subject to supplemental regulations
S Permitted by Special Use Permit (Section 19.17)
E Permitted by right if lawfully existing on the effective date of this Ordinance
Blank Use not permitted in zoning district
** Subject to Supplemental Regulations

Table 4.2: **Use Matrix: Civic Use Types (TA through I-2 Districts)**

Use Types	TA	R-1	R-2	R-3	R-MH	C-1	C-2	I-1	I-2
Civic Uses									
Administration	P	S	S	S	S	P	P	S	S
Cemetery	P								
Clubs (Recreational) **						P	P	P	P
Clubs (Social) **						P	P	P	P
College/University	P					P	P	P	P
Convalescent Services		E		P		S			
Cultural Services	P	S	S	S	S	P	P	P	P
Day Care (Limited)	P	P	P	P		P			
Day Care (General) **	S	S	S	S		P			
Detention Facilities	S					S	S	S	S
Emergency Residential			S	S					
Group Care Facility **	S			S		S	S	S	S
Group Home **				S		S	S		
Guidance Services				S		P	P		
Health Care						P			
Hospitals	S	S	S			P			
Maintenance Facility	P							P	P
Park and Recreation	S	P	P	P	P	S	S	S	S
Postal Facilities	P					P	P	P	P
Primary Education	P	P	P	P	P				
Public Assembly	P					P	P	P	P
Religious Assembly	P	P	P	P	P	S	S	S	S
Safety Services	P					P	P	P	P
Secondary Educ	P	P	P	P	P	P			
Utilities	P	P	P	P	P	P	P	P	P

P Permitted by right or by right subject to supplemental regulations
S Permitted by Special Use Permit (Section 19.17)
E Permitted by right if lawfully existing on the effective date of this Ordinance
Blank Use not permitted in zoning district
** Subject to Supplemental Regulations

Table 4.3: **Use Matrix: Office Use Types (TA through I-2 Districts)**

Use Types	TA	R-1	R-2	R-3	R-MH	C-1	C-2	I-1	I-2
Office Uses									
General Offices				**S**		**P**	**P**	**P**	**P**
Financial Services				**S**		**P**	**P**	**P**	**P**
Medical Offices		**S**	**S**	**S**		**P**	**P**	**P**	**P**

P Permitted by right or by right subject to supplemental regulations
S Permitted by Special Use Permit (Section 19.17)
E Permitted by right if lawfully existing on the effective date of this Ordinance
Blank Use not permitted in zoning district
** Subject to Supplemental Regulations

Table 4.4: **Use Matrix: Commercial Use Types (TA through I-2 Districts)**

Use Types	TA	R-1	R-2	R-3	R-MH	C-1	C-2	I-1	I-2
Commercial Uses									
Adult Entertainment **									S
Ag Sales/Service **	P					S		P	P
Auto Auction Lots								P	P
Auto Rental/Sales						P		P	P
Auto Services **						P		P	P
Body Repair **						S		P	P
Equip Rental/Sales						S		P	P
Equipment Repair **						P		P	P
Bed and Breakfast **	P	S	P	P					
Business Support Services						P	P	P	P
Business/Trade School						P	P	P	P
Campground **	P								
Commercial Rec (Controlled Impact)						P	P	P	P
Commercial Rec (High Impact)	S								
Communication Service						S	S	S	S
Construction Sale/Service **								P	P
Consumer Service						P	P	P	P
Convenience Storage **								P	P
Food Sales (Convenience)						P	S	P	P
Food Sales (Limited)						P	P	P	P
Food Sales (General)						P	S		

P Permitted by right or by right subject to supplemental regulations
S Permitted by Special Use Permit (Section 19.17)
E Permitted by right if lawfully existing on the effective date of this Ordinance
Blank Use not permitted in zoning district
** Subject to Supplemental Regulations

Table 4.4 (continued): **Use Matrix: Commercial Use Types (TA through I-2 Districts)**

Use Types	TA	R-1	R-2	R-3	R-MH	C-1	C-2	I-1	I-2
Commercial Uses									
Funeral Service	**S**	**S**	**S**			**P**	**P**	**P**	**P**
Gaming Facilities									
Kennels **	**S**						**S**	**S**	**S**
Laundry Services						**P**	**P**	**P**	**P**
Liquor Sales						**P**	**P**	**P**	**P**
Lodging						**P**	**P**	**P**	**P**
Pawnshop						**S**	**S**		
Personal Improvement						**P**	**P**	**P**	**P**
Personal Services						**P**	**P**	**P**	**P**
Pet Services						**P**	**P**	**P**	**P**
RV Storage **								**S**	**S**
Research Services						**P**	**P**	**P**	**P**
Restaurants (Drive-in)						**P**		**P**	**P**
Restaurants (General)						**P**	**P**	**P**	
Retail Services (Limited)						**P**	**P**	**P**	**P**
Retail Services (Medium)						**P**	**S**	**S**	**S**
Retail Services (Large)						**P**		**S**	**S**
Stables	**P**								
Surplus Sales						**S**		**S**	**S**
Taverns						**P**	**P**		
Trade Services								**P**	**P**
Travel Centers**						**P**	**P**	**P**	**P**
Truck Stops**						**P**		**P**	**P**
Vehicle Storage (Short-term)								**P**	**P**
Veterinary Services (General)	**P**					**P**	**S**	**S**	**S**
Veterinary Services (Large Animal)	**P**							**S**	**S**

P Permitted by right or by right subject to supplemental regulations
S Permitted by Special Use Permit (Section 19.17)
E Permitted by right if lawfully existing on the effective date of this Ordinance
Blank Use not permitted in zoning district
** Subject to Supplemental Regulations

Table 4.5: **Use Matrix: Parking and Transportation Use Types (TA through I-2 Districts)**

Use Types	TA	R-1	R-2	R-3	R-MH	C-1	C-2	I-1	I-2
Parking Uses									
Off-Street Parking						**S**	**S**	**S**	**S**
Parking Structure						**S**	**S**	**S**	**S**
Transportation Uses									
Aviation (General)	**S**	**S**						**S**	**S**
Aviation (Private)	**S**	**S**						**S**	**S**
Railroad Facilities	**S**					**P**		**P**	**P**
Truck Terminal								**P**	**P**
Transportation Terminal						**P**		**P**	**P**

P Permitted by right or by right subject to supplemental regulations
S Permitted by Special Use Permit (Section 19.17)
E Permitted by right if lawfully existing on the effective date of this Ordinance
Blank Use not permitted in zoning district
** Subject to Supplemental Regulations

Table 4.6: **Use Matrix: Industrial Use Types (TA through I-2 Districts)**

Use Types	TA	R-1	R-2	R-3	R-MH	C-1	C-2	I-1	I-2
Industrial Uses									
Agricultural Industry	**P**							**S**	**P**
Construction Yards								**S**	**P**
Custom Manufacturing						**S**		**P**	**P**
Light Industry								**P**	**P**
General Industry								**S**	**P**
Heavy Industry									**P**
Recycling Collection								**S**	**P**
Recycling Processing									**P**
Resource Extraction **									**P**
Salvage Services **									**S**
Vehicle Storage (Long-term) **								**P**	**P**
Warehousing (Enclosed)								**P**	**P**
Warehousing (Open)								**S**	**P**
Miscellaneous Uses									
Amateur Radio Tower	**P**	**P**	**P**	**P**	**P**	**P**		**P**	**P**
Communications Tower**	**P**		**P**	**P**		**P**		**P**	**P**
Construction Batch Plant								**S**	**P**
Landfill (Non-Putrescrible) **	**S**								**S**
Landfill (Putrescible) **	**S**								**S**
WECS**	**P**	**S**						**P**	**P**

P Permitted by right or by right subject to supplemental regulations
S Permitted by Special Use Permit (Section 19.17)
E Permitted by right if lawfully existing on the effective date of this Ordinance
Blank Use not permitted in zoning district
** Subject to Supplemental Regulations

ARTICLE 5
TA TRANSITIONAL AGRICULTURAL DISTRICT

5.1 Purpose

The TA district promotes and preserves agricultural uses, including crop and animal production. This district is intended to accommodate activities such as agriculture, horticulture, dairy farming, livestock farming, poultry farming, general farming and other agricultural activities. This district discourages low density single family residential development often associated with agricultural areas by requiring a minimum 2.5 acre lot size. The TA district is also intended to maintain interim agricultural uses within areas designated in the Valentine comprehensive plan as long-term urban growth areas. The intent here is to discourage rural residential growth in these areas that are in watersheds that can eventually accommodate development served by extension of public sewers. Where these areas are outside the city limits of Valentine, but within its one-mile jurisdiction, it is intended that the City work with the County to apply this district's site development regulations to these long term urban growth areas.

5.2 Site Development Regulations

The height and minimum lot requirements shall be as follows except as provided in Article 17 of this Chapter.

- Residential Dwellings:
  - Lot Area: Minimum of two and one-half (2.5) acres.
  - Lot Width: hundred (150') feet.
  - Minimum Yards:
    - Front: thirty-five (35') feet
    - Rear: thirty-five (35') feet
    - Side: eight (8') feet
  - Height: thirty-five (35') feet maximum above grade.

5.3 Advertising Signs and Billboards

Advertising signs and billboards may be located as follows:

1. Not less than three hundred (300') feet of an intersection, highway structure, residence, park, school, cemetery, public or semi-public building.
2. The total aggregate area of the advertising signs and billboard shall not exceed three hundred (300) square feet per mile, each mile measured beginning and ending with a section line.
3. Each advertising sign or billboard shall maintain a setback from the property line equal in feet to the square root of the area of the sign, the distance measured from its nearest edge to the property line.
4. A fee shall be paid to the building Inspector at the time of application equal in dollars to the square root of the area of the sign.
5. These requirements shall not apply to temporary signs advertising the sale or lease of the premise providing that temporary signs shall not exceed twelve (12) square feet in size.
6. All signs and billboards shall be maintained in a neat and presentable condition. In the event their use shall cease, they shall be removed promptly and the area restored to a condition free from refuse and rubbish.

Note 1: Front yard setback is measured from property line of platted lots. For unplatted lots along roads, residential structures shall be set back sufficiently to allow for future right-of-way dedications. This setback

is typically 75 feet from the center line of the adjacent road. The Zoning Administrator may establish a different set-back requirement based on the specific context of a parcel. The reason for any such variation shall be documented in writing by the Zoning Administrator.

ARTICLE 6
R1 LOW-DENSITY RESIDENTIAL DISTRICT

6.1 Purpose

The intent of this district is to provide low-density urban residential uses along with compatible supporting uses in population centers providing adequate public facilities and creating or maintaining a sound, pleasant environment and insuring a desirable, economical growth pattern to the community.

6.2 Site Development Regulations

The height and minimum lot requirements shall be as follows except as provided in Article 17 of this Chapter.

- Single-Family Detached:
  - Lot Area: 6,000 Square feet minimum
  - Lot Width: Sixty (60') feet minimum
- Single-Family Attached
  - Lot Area: 3,000 Square feet minimum
  - Lot Width: Thirty (30) feet minimum, per unit
- Duplex
  - Lot Area: 6,000 Square feet minimum
  - Lot Width: Sixty (60') feet minimum
- Townhouse (limited to no more than 4-unit buildings)
  - Lot Area: 3,000 Square feet minimum
  - Lot Width: Twenty-five (25') feet minimum

- All Uses:
  - Minimum Yards: Front: 30 feet
  - Rear: 35 feet
  - Side: 7 feet for 1 story building; 10 feet for 2 stories or more
  - Height: 35 feet maximum above grade.

6.3 Off Street Parking and Loading

All yard areas except the front yards required for residential uses may be used for parking purposes.

1. Dwellings: One (1) space for each dwelling unit
2. Church or Temple: One (1) space for each four (4) seats in the main auditorium
3. Country Club or Golf Club: Two (2) spaces for each hole, plus one (1) space for each one hundred (100) square feet of clubhouse floor area
4. Schools and Public Buildings: One (1) space for each classroom or office room plus one (1) for each ten (10) seats in the main auditorium, stadium, or place of public assembly

Note 1: In the case of a reverse corner lot, there shall be maintained a setback from the side street of not less than 75 percent of the front yard required on the lots in the rear of such corner lot, but such setback need not exceed 25 feet.

Note 2: Churches are permitted a maximum height of 45 feet for the main structure and 75 feet for towers or steeples.

ARTICLE 7

R-2 MEDIUM-DENSITY RESIDENTIAL DISTRICT

7.1 Purpose

The intent of this district is to provide moderate density residential development, with gross densities generally between 6 and 12 units per acre, along with compatible supporting uses in population centers providing adequate public facilities and creating or maintaining a sound pleasant environment ensuring a desirable economical growth pattern to the community. These developments include single family dwellings on moderate sized lots, along with low-density multi-family residential structures such as duplexes and townhouses.

7.2 Site Development Regulations

The height and minimum lot requirements shall be as follows except as provided in Article 17 of this Chapter.

- Single-Family Detached:
  - Lot Area: 6,000 Square feet minimum
  - Lot Width: Sixty (60') feet minimum
- Single-Family Attached
  - Lot Area: 3,000 Square feet minimum
  - Lot Width: Thirty (30') feet minimum
- Duplex
  - Lot Area: 6,000 Square feet minimum
  - Lot Width: Sixty (60') feet minimum
- Townhouse
  - Lot Area: 3,000 Square feet minimum
  - Lot Width: Twenty-five (25') feet minimum
- Multi Family
  - Lot Area: 10,000 Square feet minimum
  - Lot Area per Housing Unit: 2,500 Square feet minimum
  - Lot width: One hundred (100') feet minimum

- All Uses:
  - Minimum Yards: Front: 25 feet
  - Rear: 35 feet
  - Side: 7 feet for 1 story building; 10 feet for 2 stories or more
  - Height: 35 feet maximum above grade.

7.3 Off Street Parking and Loading

All yard areas except the front yards required for residential uses may be used for parking purposes.

1. Single Family Dwellings: One (1) space for each dwelling unit
2. Multi-family Dwellings: One and one-half (1.5) space for each dwelling unit
3. Church or Temple: One (1) space for each four (4) seats in the main auditorium
4. Country Club or Golf Club: Two (2) spaces for each hole, plus one (1) space for each one hundred (100) square feet of clubhouse floor area
5. Schools and Public Buildings: One (1) space for each classroom or office room plus one (1) for each ten (10) seats in the main auditorium, stadium, or place of public assembly

Note 1: In the case of a reverse corner lot, there shall be maintained a setback from the side street of not less than 75 percent of the front yard required on the lots in the rear of such corner lot, but such setback need not exceed 25 feet.

Note 2: Churches are permitted a maximum height of 45 feet for the main structure and 75 feet for towers or steeples.

ARTICLE 8

R-3 HIGH DENSITY RESIDENTIAL DISTRICT

8.1 Purpose

The intent of this district is to provide moderate density residential development, with gross densities generally between 6 and 12 units per acre, along with compatible supporting uses in population centers providing adequate public facilities and creating or maintaining a sound pleasant environment ensuring a desirable economical growth pattern to the community. These developments include single family dwellings on moderate sized lots, along with low-density multi-family residential structures such as duplexes and townhouses.

8.2 Site Development Regulations

The height and minimum lot requirements shall be as follows except as provided in Article 17 of this Chapter.

- Single-Family Detached:
  - Lot Area: 4,500 Square feet minimum
  - Lot Width: Fifty (50') feet minimum
- Single-Family Attached
  - Lot Area: 2,500 Square feet minimum
  - Lot Width: Twenty-five (25') feet minimum
- Duplex
  - Lot Area: 4,500 Square feet minimum
  - Lot Width: Fifty (50') feet minimum
- Townhouse
  - Lot Area: 2,500 Square feet minimum
  - Lot Width: Twenty-five (25') feet minimum
- Multi Family
  - Lot Area: 10,000 Square feet minimum
  - Lot Area per Housing Unit: 1,500 Square feet minimum
  - Lot width: Eighty (80') feet minimum

- All Uses:
  - Minimum Yards: Front: 25 feet
  - Rear: 35 feet
  - Side: 5 feet for 1 story building; 7 feet for 2 stories or more
  - Height: 50 feet maximum above grade.

8.3 Off Street Parking and Loading

All yard areas except the front yards required for residential uses may be used for parking purposes.

1. Single Family Dwellings: One (1) space for each dwelling unit
2. Multi-family Dwellings: One and one-half (1.5) space for each dwelling unit
3. Church or Temple: One (1) space for each four (4) seats in the main auditorium
4. Country Club or Golf Club: Two (2) spaces for each hole, plus one (1) space for each one hundred (100) square feet of clubhouse floor area
5. Schools and Public Buildings: One (1) space for each classroom or office room plus one (1) for each ten (10) seats in the main auditorium, stadium, or place of public assembly

Note 1: 1-Family Attached and Townhouse Development
Regulators are shown on a per unit basis.

Note 2. Separation of Townhouse Buildings
There shall be a minimum of 15 feet separation between adjacent townhouse row dwellings.

Note 3: Churches are permitted a maximum height of 45 feet for the main structure and 75 feet for towers or steeples.

ARTICLE 9

R-MH MOBILE HOME RESIDENTIAL

9.1 Purpose

The Mobile Home Residential district recognizes that mobile homes, when properly planned, can provide important opportunities for affordable housing. It provides opportunities for mobile home development within the planning jurisdiction along with the supporting services necessary to create quality residential neighborhoods.

9.2 Site Development Regulations

The height and minimum lot requirements shall be as follows except as provided in Article 17 of this Chapter:

- Dwellings and Mobile Homes:
    - Lot Area: 6,000 square feet minimum, when served by a community sewer and water system. 25,000 Square feet minimum when not served by a community sewer and water system.
    - Lot Width: Fifty (50') feet minimum
    - Minimum Yards:
        - Front: 20 feet
        - Rear: 30 feet
        - Side: 7 feet for one-story buildings, 10 feet for 2 stories or more
    - Height: 35 feet maximum above grade.

Dwelling Unit Area Regulations:
The minimum living area of a dwelling unit in this District shall be six hundred (600) square feet

9.3 Off Street Parking and Loading

All yard areas for mobile homes except the front yards required for residential uses may be used for off-street parking purposes.

- Single Family-Dwellings. One (1) space for each dwelling unit

ARTICLE 17

C-1 HIGHWAY COMMERCIAL DISTRICT

10.1 Purpose

The C-1 district accommodates commercial and office facilities that serve the needs of markets ranging from several neighborhoods to the overall region. This district includes auto-oriented, primarily retail/service/office commercial and moderate to high density residential uses. Uses typically include small-scale retail and personal services as well as community uses such as major grocery stores and office buildings. C-1 Districts are typically located along major commercial or mixed use corridors, lining both sides of the street. The district also permits other uses with similar urban impacts to substantial commercial development.

10.2 Site Development Regulations for C-1 Districts

The height and minimum lot requirements shall be as follows except as provided in Article 17 of this Chapter.

- Lot Area: No minimum
- Lot Width: No minimum
- Minimum Yards:
  - Front: 30 feet
  - Rear: 25 feet
  - Side: None excepting alongside of lot abutting a "TA" or "R" District, a side yard of not less than 25 feet shall be provided.
- Height: 60 feet maximum above grade.

10.3 Off-Street Parking and Loading

PARKING:

The following are the minimum offstreet parking requirements.

1. Retail, Wholesale and Financial Businesses: One (1) space for each three hundred (300) square feet floor area.
2. Automobile and Farm Implement Sales, Service, and Repair Establishments: One (1) space for each four hundred (400) square feet of floor area.
3. Bowling Alley: Three and one third (3.3) spaces for each lane or alley.
4. Dance Hall and Skating Rinks: One (1) space for each one hundred and fifty (150) square feet of floor area.
5. Motels, Hotels, and Tourist Camps: One (1) space for each unit or suite plus one (1) space for each three hundred (300) square feet of commercial floor area.
6. Professional Offices, Personal Service, and Repair Shops: One (1) space for each seven hundred fifty (750) square feet of floor area.
7. Restaurants, Night Clubs, Cafes: One (1) space for each 3 person capacity in service area.
8. Frozen Food Lockers, Dry Cleaning Establishments, Clubs, and Lodges: One (1) space for each four hundred (400) square feet of floor area. Access to parking areas from major streets shall not be closer than fifty (50') feet to an intersecting right-of-way line.
9. Other Uses: Uses not listed shall provide parking on the basis of how the floor area of the premesis are employed.
   a. Office or Administaration: 1 space per 300 square feet
   b. Indoor Sales, Display, or Service Area: 1 space per 500 square feet

c. Outdoor Sales, Display, or Service Area: 1 space per 2,000 square feet
d. Equipment Servicing or Manufacturing: 1 space per 1,000 square feet
e. Indoor or Outdoor Storabge or Manufacturing; 1 space per 5,000 square feet

LOADING:

1. Off-Street Loading: One (1) space for each ten thousand (10,000) square feet of floor area or fraction thereof.

10.4 Signs and Billboards

1. Signs shall not be erected or maintained in such a manner as to obscure or otherwise physically interfere or cause confusion with an official traffic sign, signal, or device or in such a manner as to obstruct or physically interfere with a driver's view of approaching, merging, or intersecting traffic.
2. Advertising and identification signs relating to the premises on which it is located may be located not less than one hundred (100') feet to any public or semi-public facility such as parks, play grounds, schools, colleges, churches, hospitals, museums, auditoriums, and libraries and not less than fifty (50') feet to any "TA" or "R" district. Such restrictions shall not apply to the Cowboy Trail.
3. All other advertising signs and billboards may be located no less than three hundred (300') feet to any public or semi-public facility as described in Paragraph 2 not less than two hundred (200') feet to a "TA" or "R" District. Such restrictions shall not apply to the Cowboy Trail.
4. All signs and billboards shall be maintained in a neat and presentable conditions. In the event their use shall cease, they shall be removed promptly and the area restored to a condition free from refuse and rubbish.
5. Maximum size limit:
    a. 100 square feet for freestanding signs
    b. 672 square feet for standing billboards
6. Maximum height of freestanding signs: 25 feet

10.5 Additional Requirements

1. The uses in the district, as much as possible, shall be so designed to be grouped together using common parking and common ingress and egress points in contrast to stripping along streets and roads using separate individual drives for access
2. When abutting a "TA", or "R" District, an attractive, well-maintained buffer shall be provided to serve as an effective screen to lessen the incompatibility of present and future uses.

ARTICLE 11

C-2 BUSINESS DISTRICT

11.1 Purpose

The intent of this district is to maintain and enlarge upon a center for commercial, financial, professional, governmental, and cultural activities of a community. It is further intended that this classification be limited to that area so designated as the Central Business District as outlined in the Comprehensive Plan.

11.2 Site Development Regulations for C-2 Districts

The height and minimum lot requirements shall be as follows except as provided in Article 17 of this Chapter.

- Lot Area: No minimum required.
- Minimum Yards:
  - Front: None
  - Side: None except along the side of a lot in a "TA" or "R" District in which case ten (10') feet shall be provided.
  - Rear: None except for a lot abutting a "TA" or "R" District in which case twenty-five (25') feet shall be provided.
  - Height: 60 feet maximum above grade.

11.3 Off Street Parking and Loading

- Off-Street Loading: One (1) space for each ten thousand (10,000) square feet of floor area or fraction thereof.

11.4 Signs and Billboards

1. Billboards are not allowed in the C-2 district
2. Signs shall not be erected or maintained in such a manner as to obscure or otherwise physically interfere or cause confusion with an official traffic sign, signal, or device or in such a manner as to obstruct or physically interfere with a driver's view of approaching, merging, or intersecting traffic.
3. Advertising and identification signs relating to the premises on which it is located may be located not less than one hundred (100') feet to any public or semi-public facility such as parks, play grounds, schools, colleges, churches, hospitals, museums, auditoriums, and libraries and not less than fifty (50') feet to any "TA" or "R" district. Such restrictions shall not apply to the Cowboy Trail and Trailhead Park.
4. All other advertising signs may be located no less than three hundred (300') feet to any public or semi-public facility as described in Paragraph 2 not less than two hundred (200') feet to a "TA" or "R" District. Such restrictions shall not apply to the Cowboy Trail and Trailhead Park.
5. All signs shall be maintained in a neat and presentable conditions. In the event their use shall cease, they shall be removed promptly and the area restored to a condition free from refuse and rubbish.
6. Maximum size limit:
   a. 75 square feet for freestanding signs
7. Maximum height of freestanding signs: 15 feet

ARTICLE 12

I-1 LIGHT INDUSTRIAL DISTRICT

12.1 Purpose

The I-1 district provides appropriate space for light industrial uses with relatively limited environmental effects. The district is designed to provide appropriate space and regulations to encourage good quality industrial development, while assuring that facilities are served with adequate parking and loading facilities.

12.2 Site Development Regulations for I-1 Districts

The height and minimum lot requirements shall be as follows except as provided in Article 17 of this Chapter.

- Lot Area: No minimum required.
- Minimum Yards:
  - Front: 25 feet
  - Side: None required except along side of a "TA" or "R" District in which case ten (10') feet shall be provided.
  - Rear: None.

12.3 Off-Street Parking and Loading

Parking:

1. Warehousing, Storage, and Manufacturing: One (1) space for each two (2) employees plus one (1) space for each vehicle used by the industry.
2. Other Uses: Uses not listed shall provide parking on the basis of how the floor area of the premesis are employed.
   a. Office or Administaration: 1 space per 300 square feet
   b. Indoor Sales, Display, or Service Area: 1 space per 500 square feet
   c. Outdoor Sales, Display, or Service Area: 1 space per 2,000 square feet
   d. Equipment Servicing or Manufacturing: 1 space per 1,000 square feet
   e. Indoor or Outdoor Storabge or Manufacturing; 1 space per 5,000 square feet

Loading:

1. Off-Street Loading: One (1) space for each twenty thousand (20,000) square feet of floor area or fraction thereof.

12.4 Advertising Signs and Billboards

1. Signs shall not be erected or maintained in such a manner as to obscure or otherwise physically interfere or cause confusion with an official traffic sign, signal or device, or in such a manner as to obstruct or physically interfere with a driver's view of approaching, a merging, or intersecting traffic.
2. Advertising and identification signs relating to the premises on which it is located may be located not less than one hundred (100') feet to any public or semi-public facility such as parks, playgrounds, schools, colleges, churches, hospitals, museums, auditoriums, and libraries and not less than fifty (50') feet to any "TA" or "R" District. Such restrictions shall not apply to the Cowboy Trail.
3. All signs and billboards shall be maintained in a neat and presentable condition. In the event their use shall cease, they shall be removed promptly and the area restored to a condition free from refuse and rubbish. Maximum size limit:

a. 100 square feet for freestanding signs
b. 672 square feet for standing billboards

4. Maximum height of freestanding signs: 25 feet

I-2 GENERAL INDUSTRIAL DISTRICT

13.1 Purpose

The I-2 district is intended to accommodate a wide variety of industrial uses, some of which may have significant external effects. These uses may have characteristics that create conflicts with lower-intensity surrounding land uses. The district provides the reservation of land for these activities and includes buffering requirements to reduce incompatibility.

13.2 Site Development Regulations

The height and minimum lot requirements shall be as follows except as provided in Article 17 of this Chapter.

- Lot Area: None
- Lot Width: None
- Minimum Yards:
    - Front: 35 feet
    - Rear: 25 feet
    - Side: 25 feet
- Height: 50 feet maximum

13.3 Off Street Parking and Loading

1. One (1) space for each two hundred (200) square feet of gross floor plus one (1) space for every two (2) employees.

13.4 Signs

1. Signs shall not be erected or maintained in such a manner as to obscure or otherwise physically interfere or cause confusion with an official traffic sign, or device or in such a manner as to obstruct or physically interfere with a driver's view of approaching, merging or intersecting traffic.
2. Advertising and identification signs relating to the premises on which it is located may be located not less than one hundred (100') feet to any playgrounds, schools, colleges, churches, hospitals, museums, auditoriums, and libraries and not less than fifty (50') feet to any "TA" or "R" District.
3. All other advertising signs and billboards may be located not less than three hundred (300') feet to any public or semi-public facility as describe in Paragraph 2 and not less than three hundred (300') feet to a "TA" "R" District.
4. All signs and billboards shall be maintained in a neat and presentable condition. In the event their use shall cease, they shall be removed promptly and the area restored to a condition free from refuse and rubbish. All signs and billboards shall be maintained in a neat and presentable condition. In the event their use shall cease, they shall be removed promptly and the area restored to a condition free from refuse and rubbish. Maximum size limit:
    c. 100 square feet for freestanding signs
    d. 672 square feet for standing billboards
5. Maximum height of freestanding signs: 25 feet

13.5 Additional Requirements

1. When abutting a "TA" or "R" District, an attractive, well-maintained buffer shall be provided to serve as an effective screen to lessen the incompatibility of present or future uses.
2. No use shall produce offensive noises, odors, vibrations, or electrical interference beyond its own property line.

OVERLAY AND SPECIAL DISTRICTS

14.1 Purpose

Overlay Districts are used in combination with Base Districts to modify or expand base district regulations. Special Districts are not used in conjunction with a Base District, but otherwise serve the same purpose as Overlay Districts. Both districts adapt to the special needs of areas of the city and further allow Valentine's Zoning Ordinance to evolve as the planning and development needs and trends of specific areas also change. The Overlay and Special Districts are designed to achieve the following objectives:

a. To recognize special conditions in specific parts of the City which require specific regulation.

b. To provide for the protection of special features in the natural and built environment of the city.

c. To allow for change and adaptability to different needs and trends in land development.

d. To encourage comprehensive neighborhood and environmental planning in the city, and to protect the integrity of vital city services such as the water supply and airport operation.

e. To provide flexibility in development and to encourage innovative design through comprehensively planned projects.

14.2 Establishment of Districts

The following Overlay and Special Districts are hereby established.

SPECIAL DISTRICTS

PUD	Planned Unit Development District

OVERLAY DISTRICTS

AV	Aviation Overlay District

PUD PLANNED UNIT DEVELOPMENT DISTRICT

15.1 Purpose

The PUD planned unit development district is intended and designed to encourage large-scale and quality development of vacant or underutilized tracts of land throughout the city pursuant to a unified building and site development plan incorporating a comprehensive design based on a thorough application of professional standards of excellence. It is further the intent of this division to allow greater flexibility of standards and diversification of land uses than provided in the regulations of other zoning districts set forth in this chapter in order to accomplish the objectives to:

a. Preserve open space and other environmentally sensitive areas;

b. Permit development of land which, because of topographical or shape problems or other practical difficulties, otherwise cannot be feasibly developed;

c. Encourage appropriate mixed-use development; and

d. Encourage revitalization of older neighborhoods by permitting development or redevelopment of vacant or underutilized tracts of land substantially surrounded by other properties which have been developed with buildings.

15.2 Preapplication conference

a. The owner of a contiguous tract of land may file an application for a change to the PUD planned unit development district classification.
b. Before submitting such application, the developer shall confer with the Zoning Administrator and other relevant city departments. The purpose of the conference shall be to discuss the feasibility of the proposal and to provide the developer with information and guidance regarding applicable city ordinances, specifications, standards and procedures, before the developer enters into binding commitments or incurs substantial expenses.

c. The developer is encouraged to contact adjoining property owners to inform them of the plan to submit a development proposal.

15.3 Conceptual plan and evidence required

The application for a change to the PUD planned unit development district classification for shall be accompanied by six copies of a conceptual plan of the entire proposed development. The application and all required information must be filed by the applicant for placement on the Plan and Zoning Commission agenda. The application also shall be accompanied by two copies of evidence, e.g., background studies, letters from appropriate agencies, agency comments from the preapplication conference, etc., showing the following:

a. The proposed development is in harmony with existing or anticipated uses of other properties in the neighborhood;

b. The manner in which the developer proposes to maintain any common ground to be included within the development;

c. The feasibility of providing adequate stormwater and surface water drainage, sanitary sewer capacity, and water service for the proposed development;

d. The surrounding streets are capable of accommodating the increased traffic that would be generated by the new development, including a traffic study if required by city staff at the preapplication conference;

e. Off-street parking and loading will be provided as appropriate to the size and character of the proposed development;

f. A study to indicate a market for the proposed development, provided such study is required by city staff at the pre-application conference; and

g. The developer has the financial resources and the professional ability to successfully complete the proposed development within the time schedule set forth in the conceptual plan.

h. An environmental report, if required by city staff at the pre-application conference, shall be submitted by a qualified professional addressing environmental issues relative to development on the site.

15.4 Contents of Conceptual Plan

The conceptual plan required in Article 15.3 shall be submitted on a sheet size no larger than 24 inches by 36 inches and shall show in schematic form the following:

a. The boundaries of the proposed PUD district and a description of the existing structures and uses on surrounding properties;

b. Topographic features of the site, including major existing natural features;

c. Proposed building uses, number of stories, general exterior design and building materials, dimensions, and floor areas, prepared by an architect registered in this state;

d. Parking areas and access drives;

e. Streets abutting or within the proposed development;

f. Landscaping plan for the entire PUD district showing the general location and type of proposed landscaping, walks, fences, walls and other screenings; Unless otherwise expressly provided in the conceptual plan, fencing shall be allowed as per the standards for the R residential districts for all lots devoted to single or two-family use, with the required yards for fence purposes to be determined by the setbacks shown by the typical lot layout(s) identified in the plan. If no fences are intended, the plan shall specifically state that no fences are to be allowed;

g. Location, size and type of any existing and proposed signs;

h. Required peripheral yards;

i. Common land, detention basins, recreation areas, parks, school sites and any other amenities and shall show if any area is to be dedicated to a governmental entity with its written acknowledgement of such dedication;

j. Existing utility and other easements; and

k. Development stages and schedule for commencement after the director's approval of the development plan and completion of construction after commencement in each stage.

15.5 Approval of conceptual plan and rezoning by Plan and Zoning Commission and City Council.

The application, accompanying evidence and conceptual plan required by this division shall be considered by the Plan and Zoning Commission at a public hearing. The Commission shall review the conformity of the proposed development with the city's comprehensive plan, the standards of this division, and with recognized principles of civic design, land use planning, and landscape architecture. At the conclusion of the hearing, the Commission may vote to recommend either approval or disapproval of the conceptual plan and request for rezoning as submitted, or to recommend that the developer amend the plan or request to preserve the intent and purpose of this chapter to promote public health, safety, morals and general welfare. The recommendations of the Commission shall be referred to the City Council. The council may approve or disapprove the conceptual plan and request for rezoning, as submitted or as amended after hearing before the Commission, or may require such changes in the plan or rezoning as the council deems necessary to preserve the intent and purpose of this chapter to promote public health, safety, morals and general welfare.

15.6 Time requirements for submittal of development plan.

If the City Council approves the conceptual plan and request for rezoning as provided in Article 15.5, the developer shall submit within two years thereafter to the city six copies of a development plan of one or more development stages. The Zoning Administrator, upon written application and for good cause shown, such as regulatory delays, unavailability of financing, or unusual weather conditions, may grant one extension of not more than one year for the submission of a development plan.

15.7 Contents of development plan.

Every development plan submitted pursuant to this division shall comply with the site plan requirements of this Code, including the following items of information, unless otherwise waived by the Zoning Administrator:

a. Location, size and type of any existing and proposed signs.

b. Plans for the shape, exterior design and dimensions, floor areas, numbers of stories and usage of all proposed buildings, and an estimate of the number of employees for each use, where applicable.

c. A landscaping plan for the entire PUD district showing the location, amount and type of any proposed landscaping, fences, walls and other screening. Unless otherwise expressly provided in the development plan, fencing shall be allowed as per the standards for the R residential districts for all lots devoted to single or two-family use, with the required yards for fence purposes to be determined by the setbacks shown by the typical lot layout(s) identified in the plan. If no fences are intended, the plan shall specifically state that no fences are to be allowed.

d. Time schedule for commencement and completion of construction.

15.8 Documents required with development plan.

Every development plan submitted pursuant to this division shall be accompanied by the following documents, unless such documents have been previously submitted to the city:

a. If the proposed development includes common land which will not be dedicated to the city and the proposed development will not be held in single ownership, proposed bylaws of a unit owners' association fully defining the functions, responsibilities and operating procedures of the association. The proposed bylaws shall include but not be limited to provisions:

1. Automatically extending membership in the association to all owners of units within the development.

2. Limiting the uses of the common property to those permitted by the final development plan.

3. Granting to each owner of a unit within the development the right to the use and enjoyment of the common property.

4. Placing the responsibility for operation and maintenance of the common property in the association.

5. Giving every owner of a unit voting rights in the association.

6. If the development will include rental units, stating the relationship between the renters and the association and the rights renters shall have to the use of the common land.

b. Covenant to run with the land, in favor of the city and all persons having a possessory interest in any portion of the development premises, providing that the owners of the land or their successors in interest shall maintain all interior streets, parking areas, sidewalks, parks, and plantings which have not been dedicated to the city in compliance with city ordinances and with the development plan as approved by the City Council, which covenant shall be recorded by the developer in the office of the county recorder.

c. Warranty deeds to all land to be dedicated to the city, all required easements and all agreements which may be required by the City Council at the time of conceptual plan approval, provided that all such deeds and any such easements and agreements which run with the land shall be recorded by the developer in the office of the county recorder.

15.9 Approval of development plan by Zoning Administrator.

Every development plan and required documents submitted pursuant to this division shall be reviewed by the Zoning Administrator, who shall approve the development plan if it complies with the standards of this division and is in compliance with the conceptual plan.

15.10. Amendments to conceptual plan.

Any change in a conceptual plan proposed after the City Council has approved the plan pursuant to this division shall be resubmitted in the same manner as the original conceptual plan. Any such change, except an insubstantial change as defined in Section 19.34, shall be considered in the same manner as the original conceptual plan. However, any proposed change to the approved conceptual plan which (i) is disapproved by the Plan and Zoning Commission or (ii) would increase the allowed number of dwelling units or the allowed square footage of commercial space and which is the subject of written protest filed with the city clerk duly signed by the owners of 20 percent or more of the property which is located within 200 feet of the exterior boundaries of the property proposed for change shall not become effective except by the favorable vote of at least four-fifths of all members of the council. An insubstantial change may be approved by the City Manager if it complies with the standards Section 19.34. Procedures for amendments to conceptual and development plans are included in Section 19.35.

15.11 Amendments to development plan.

Any change in a development plan proposed after the Zoning Administrator has approved the plan pursuant to this division shall be resubmitted and considered in the same manner as the original development plan. However, if any such change involves an amendment to the conceptual plan, the City Manager shall not approve the amendment to the development plan until the conceptual plan has been approved pursuant to section 15.10 of this division.

15.12 Appeals from decisions.

a. The applicant aggrieved by a decision of the Zoning Administrator to approve or deny a proposed development plan or amendment thereto pursuant to this division shall have the right to appeal any determination or action of the Zoning Administrator made within the scope of this division. Appeal shall be made, without cost, by written notification received by the city within 30 days after the date of the action by the Zoning Administrator.

b. The appeal shall first be considered and acted upon by the Plan and Zoning Commission. The P&Z Commission shall decide all appeals within 30 days after the written notification has been received by the city, provided the appellant may agree to a longer time period not to exceed 60 days after receipt of the written notification. Failure to decide the appeal within such time period shall have the effect of overturning the Administrator's action and approving the development site plan as appealed. At the Commission meeting, the appealing party shall be presented a reasonable opportunity to present his or her views.

c. Decisions of the Plan and Zoning Commission may be appealed to the City Council in the same manner as appeals from the action of the subcommittee, provided a majority vote of the City Council shall be necessary to overturn or modify the action of the Plan and Zoning Commission.

d. In making its decision on an appeal, an appellate body shall determine whether the planning director's decision is in conformity with the requirements Valentine's Flood Development Permitting Ordinance (2009-2103M). Each decision of an appellate body shall be in writing and shall be filed in the office of the City Clerk, and notice of such decision shall be mailed by the city within five days after its filing, to all parties to the appeal.

15.13 Permitted uses.

Any use of structures or land permitted in any R, C, or I district may be permitted in the PUD planned unit development district.

15.14 Standards.

a. All uses proposed in a PUD planned unit development district plan shall be in harmony with the existing or anticipated uses of other properties in the surrounding neighborhood and shall generally be in conformance with the city's land use plan. The design of a PUD development shall be based on harmonious architectural character; compatible materials; orderly arrangement of structures and open space; and conservation of woodlands, streams, scenic areas, open space and other natural resources.

b. Setbacks and other appropriate screens shall be provided around the boundary of a PUD development to protect the adjoining district properties. Only in exceptional circumstances shall such a setback be less than the amount of the setback which the adjoining district is required to maintain from the PUD development.

c. A PUD development shall comply with all applicable city ordinances, specifications and standards relating to all dedicated street, sanitary sewer and storm sewer facilities and to surface drainage and stormwater retention.

d. The streets surrounding a PUD development must be capable of accommodating the increased traffic that would be generated by the new development. The development shall be designed to provide maximum feasible separation of vehicular traffic from pedestrian ways and recreational areas. If turning lanes or other forms of traffic controls within or adjacent to the development are deemed necessary by the City Council, the developer shall provide the necessary improvements.

e. Off-street parking and loading spaces shall be provided as appropriate to the size and character of the development. Each off-street loading space shall be not less than ten feet in width and 25 feet in length.

f. Where appropriate to the size and character of a PUD development, provision shall be made therein for open space for recreation and other outdoor uses, and for places of worship, convenience shopping and other community services.

15.15 Building permits.

No building permit concerning any stage of a PUD planned unit development shall be issued until after the development plan for that stage has been approved by the Zoning Administrator, and until after the developer has provided the city with satisfactory evidence of the recording with the county recorder of the approved development plan and any amendments thereto and of any

covenant, deed, easement or agreement required to be so recorded pursuant to subsections 15.8c. and d. of this division.

15.17 Board of Adjustment review precluded.

Because the PUD planned unit development district is intended to provide relief from the rigid regulations of more conventional zoning districts pursuant to a carefully integrated overall development plan, the board of adjustment shall have no jurisdiction to grant any variation, exception or special permit relating to any property in the PUD district.

15.18 Failure to submit development plan or to commence construction.

If the developer fails either (i) to submit a development plan within the time requirements of Article 15.6 of this division or (ii) to commence construction in accordance with the time schedule set forth in the development plan, a public hearing shall be scheduled before the Plan and Zoning Commission regarding such failure, and the developer shall be served prior notice thereof by certified mail. At such meeting the Commission shall consider all circumstances relevant to the developer's failure and shall vote to recommend to the City Council that appropriate remedial measures be initiated, which measures may include (i) the initiation of rezoning of the subject property to the zoning classification effective immediately prior to the rezoning of the subject property to a PUD district classification, and/or (ii) referral of the matter to the legal department for institution of enforcement proceedings in the courts. Upon receipt of the recommendations of the Commission, the City Council shall act to initiate remedial measures in conformity to the Commission's recommendations or to initiate such other remedial measures as the council determines to be reasonably necessary under the circumstances.

ARTICLE 16

AV AVIATION OVERLAY DISTRICT

16.1 Configuration of Airport

At the time of ordinance adoption, the regulatory configuration of the Valentine Municipal Airport was as follows:

1. Runway 14/32 is a 4,700 foot, concrete-surfaced runway, oriented north-west by south-east, with a visual minimum greater than three-fourths mile non-precision instrument approach.
2. Runway 03/21 is a 3,700 foot, asphalt-surfaced runway, oriented north-east by south-west, with a visual minimum greater than three-fourths mile non-precision instrument approach.

16.2 Zoning

See zoning regulations adopted by the Valentine/Cherry County Joint Zoning Board.

ARTICLE 17
SUPPLEMENTAL USE REGULATIONS

17.1 Purpose

The Supplemental Use Regulations set forth-additional standards for certain uses located within the various zoning districts. These regulations recognize that certain use types have characteristics that require additional controls in order to protect public health, safety, and welfare. These regulations complement the use regulations contained in Articles 5 through 15 of this Ordinance.

17.2 Supplemental Use Regulations: Agricultural Uses

Nothing in these provisions shall relieve any property owner or user from satisfying any condition or requirement associated with a previous approval, special permit, variance, development permit, or other permit issued under any local, State, or Federal ordinance or statute.

a. Crop Production in Non-Agricultural Districts

Crop production is a permitted interim use in any zoning district.

b. Horticulture and Crop Production: Retail Sales

Retail operation of garden centers or roadside stands associated with a primary agricultural use may be permitted in the TA District, subject to the following requirements:

1. Garden Centers

   (a) A garden center is a building or premises used for the retail sale of plant materials or items useful in the growing or display of lawns, gardens, and plants.

   (b) Garden centers must conform to all site development regulations for the zoning district.

   (c) Any garden center adjacent to a residential district must maintain a 20-foot landscaped buffer yard, consistent with the standards established in Section 30.4.

2. Roadside Stands

   (a) A roadside stand is a facility used on a temporary or seasonal basis for the retail sale of produce grown largely on adjacent or surrounding agricultural lands.

   (b) A roadside stand may be located within a required front yard but no closer than 40 feet to the edge of a traveled roadway.

   (c) A roadside stand may operate for a maximum of 180 days in any one year.

c. Animal Production: Separation from Residential Uses

1. Animal Production use types may not be established within 500 feet of a pre-existing residential districts, including R-1 through RM.

2. No feeding or disposal of garbage, rubbish, or offal associated with animal production shall occur within 500 feet of any pre-existing residential districts, including R-1 through RM.

17.3 Supplemental Use Regulations: Residential Uses

a. Design standards for All Single-Family detached dwellings. All single-family detached dwellings for which a building permit has been issued after the date of adoption of this ordinance shall comply with the following minimum design standards:

1. Any dwelling unit shall have no less than nine hundred (900) square feet of floor area.
2. Any dwelling shall have no less than twenty (20) feet exterior width.
3. All one-family detached dwellings located within the R-1 Single Family Low Density districts shall be constructed of siding commonly used for residential structures. The use of galvanized steel, painted steel, or aluminum sheets as commonly used in agricultural buildings is prohibited. Such structures shall be constructed with a roofing material commonly used for residential structures, which shall include asphalt, fiberglass, or steel shingles, shakes, or vulcanized rubber.
   (a) Lots in excess of two acres in area. Siding materials used for accessory buildings or structures located on a lot in excess of two acres, where the accessory building has an area in excess of 700 square feet, shall be permitted to use any commercially acceptable siding material which may include factory painted galvanized steel, painted steel, or aluminum sheets.
4. The dwellings shall have wheels, axles, transporting lights, and removable towing apparatus removed if present.
5. The dwelling shall be placed upon a permanent foundation, compatible with HUD model foundation requirements, and approved by the City of Valentine.
6. All utility services shall be directly connected to the structure.

b. <u>Separation from Confined Animal Feeding Operations (CAFO's)</u>

No new residential use shall be established within 1,250 feet of an existing CAFO, except for the residence of the owner or operator of the CAFO, employee, or working tenant.

c. <u>Downtown and Group Residential in C2 District</u>

Downtown and Group Residential uses are permitted in the C2 District only on levels above street level. A unit or units specifically designed for occupancy by disabled residents may be developed at street level, subject to approval by the Board of Adjustment.

d. <u>Mobile Home Parks</u>

Mobile Home Parks and mobile home residential use are permitted in the R-MH District. Such use may be configured in a Mobile Home Park. Following the effective date of this Ordinance, no

mobile home shall be located outside of a Mobile Home Park. A Mobile Home Park is subject to compliance with the following regulations:

1. Site Plan Required
   No person shall make alterations, construct, expand or remodel a manufactured home community or mobile home park within the City without first submitting a site plan of the proposed development.

2. Certification

   (a) A certification of compliance with all ordinances and regulations regarding mobile home licensing, zoning, health, plumbing, electrical, building, fire protection and any other applicable requirements shall be required of all Mobile Home Parks.

   (b) The Building Official is authorized to perform an annual inspection of any Mobile Home Park to ensure compliance with these regulations.

   (c) Before being located, whether permanently or for a temporary period of time allowed by a temporary permit, all mobile homes located in the City limits shall display a seal from the United States department of housing and urban development, and was constructed on or after June 15, 1976.

3. Mobile Home Park Area and Yard Requirements
   Mobile home parks or manufactured home communities shall be designed and maintained in accordance with the following requirements:

   (a) A Mobile Home Park shall be considered to be one zoned lot. The minimum contiguous area of a Mobile Home Park shall be two acres.

   (b) The maximum gross density of a Mobile Home Park shall be 7 units per acre.

   (c) The minimum size of an individual mobile home space shall be 4,000 square feet for single-wide mobile home units and 5,000 square feet for double-wide mobile home units.

   (d) Setbacks: Each Mobile Home Park shall have a minimum front yard setback of 50 feet, to be measured from all streets on which the park abuts. Side and rear yard Park setbacks of 35 feet are required. No space for a dwelling unit or any other structure shall be permitted in the required setback.

   (e) Setback landscaping: All area contained within the required setbacks except sidewalks and private drives shall be landscaped and screened.

   (f) Open Space: Each Mobile Home Park shall provide a minimum of 400 square feet of open recreational space per unit. Such space shall be provided at a central location accessible from all parts of the park by pedestrians. Required perimeter setbacks or buffers shall not be credited toward the fulfillment of this requirement.

4. Mobile Home Spaces – Minimum Requirements

(a) Each mobile home space shall have a width of at least 50 feet and a length of at least 80 feet.

(b) Separation Between Mobile Home Units: The minimum separation between a mobile home unit and attached accessory structure and any other mobile home units and/or accessory structure shall be 20 feet.

(c) Separation and Setbacks for Accessory Buildings: An accessory building on a mobile home space shall maintain a minimum rear and side yard setback of five feet. A minimum distance of ten feet shall be provided between any mobile home and an unattached accessory building.

(d) Front yard Setback: Minimum 15 ft
Rear yard setback: Minimum 10 ft
Side yard setback: Minimum 5 ft each side, with a minimum or 20 feet between any two homes.

5. Street Access and Circulation Requirements

(a) Access to Public Street: Each Mobile Home Park must abut and have access to a dedicated public street with a right-of-way of at least 60 feet. Direct access to a mobile home space from a public street is prohibited.

(b) Vehicular Circulation: The Mobile Home Park must provide interior vehicular circulation on a private internal street system. Minimum interior street width shall be 27 feet. The street system shall be continuous and connected with other internal and public streets; or shall have a cul-de-sac with a minimum diameter of 100 feet. No such cul-de-sacs may exceed 300 feet in length.

(c) Separation between Units and Circulation Areas: The minimum distance between a mobile home unit and any attached accessory structure and the pavement of an internal street or parking area shall be ten feet.

(d) Sidewalks: Each Mobile Home Park shall provide a sidewalk system to connect each mobile home space to common buildings or community facilities constructed for the use of its residents; and to the fronting public right of way. Sidewalk width shall be at least four feet.

(e) Street and Sidewalk Standards: All internal streets and sidewalks shall be hard-surfaced. Electric street lighting is required along all internal streets.

(f) Parking Requirements: Each Mobile Home Park must provide at least two off-street parking stalls for each mobile home space.

6. Utilities

a) All Mobile Home Parks shall provide individual units and common facilities with an adequate, piped supply of hot and cold water for both drinking and domestic purposes;

and standard electrical service, providing at least one 120-volt and one 240-volt electrical service outlet to each mobile home space.

(b) Complete water and sewer service shall be provided within each Mobile Home Park in accordance with the Subdivision Chapter of the Unified Land Development Ordinance.

(c) Properly spaced and operating fire hydrants shall be provided for proper fire protection within each Mobile Home Park in accordance with the Subdivision Ordinance.

7. Foundation Requirements

a) All mobile homes shall be secured to the ground by tie-downs and ground anchors that comply with the requirements of the Nebraska Building Code.

(b) All mobile homes shall be blocked at a maximum of ten foot centers around the perimeter of each unit; such blocking shall provide 16 by 16 inch bearing on the stand.

(c) Pads shall be a hard surface capable of carrying the weight and of sufficient length to support all blocking points of the mobile home.

(d) Each home shall be skirted within 30 days of its placement in the park. Skirting materials shall be compatible with the exterior finish of the mobile home.

8. Financial Responsibility: Each application for a Mobile Home Park shall include a demonstration by the developer of financial capability to complete the project; and a construction schedule.

9. Completion Schedule: Construction must begin on any approved Mobile Home Park within one year of the date of approval by the Planning Commission and City Council. Such construction shall be completed within two years of approval, unless otherwise extended by the Commission.

10. Mobile Home Park Occupations. The intent of this section is to protect and maintain the residential character of a mobile home park neighborhood while permitting certain limited commercial activities which are specifically authorized to be carried out on the premises. This section is designed to accommodate the special nature of mobile home parks and allow for orderly development compatible with the residential character of mobile home parks.

(a) Definitions. For use in this section the following additional terms are defined:

(1) "Mobile home park occupation" means any business, profession, occupation or activity conducted for gain within the office building of a mobile home park, which is located in a mobile home park and which does not change the essential residential character of the neighborhood.

(2) "Office building" means an office building of a mobile home park as referred to herein and includes buildings designed for management of the affairs of the mobile home

park and/or providing shelter to occupants of the mobile home park in terms of storms or other natural disaster.

(b) Regulations.

(1) The business, profession, occupation or activity shall employ no more than two full-time employees or its equivalent.

(2) All activities of said business, profession or occupation shall be conducted entirely within the confines of the office building.

(3) All services conducted and commodities sold shall be related and incidental to the mobile home park occupation.

(4) No commodity, merchandise or materials, processed or unprocessed, shall be displayed on the exterior and no exterior storage of such commodities, merchandise or materials or other exterior indication of the occupation shall be allowed.

17.4 Supplemental Use Regulations: Civic Uses

a. Clubs

Clubs located adjacent to residential uses shall maintain a bufferyard of not less than fifteen feet along the common boundary with such residential use.

b. Day Care Centers (General)

1. Each day care center (general) must be validly licensed by the State of Nebraska.

2. Special Use Permit applications for General Day Care Centers shall specify the number and projected ages of children to be cared for at the facility, and the number of projected full- and part-time staff.

c. Group Care Facilities and Group Homes

1. Each group care facility or group home must be validly licensed by either the State of Nebraska or the appropriate governmental agency.

2. Group homes are permitted in the C2 District only on levels above street level except that a facility specifically designed for occupancy by disabled residents may be developed at street level, subject to approval as a special conditional use by the Zoning Board of Adjustment.

17.5 Supplemental Use Regulations: Commercial Uses

a. Auto Service, Repair, Equipment Repair, Travel Center, Truck Stop, RV Storage, and Body Repair Uses

1. Where permitted in commercial districts, all repair activities, including oil drainage, lifts, and other equipment, must take place within a completely enclosed building. Outdoor storage is permitted only where incidental to Auto Repair and Body Repair, provided that such storage is completely screened so as not to be visible from residential areas or public rights-of-way.

2. Any spray painting must take place within structures designed for that purpose and be approved by the Building Official.

3. All entrances and exits serving a gasoline or diesel service station, convenience store offering fuel sales, or automobile repair shop shall be at least 150 feet from a school, public park, hospital, or residential use, as measured along any public street. Such access shall be at least 40 feet away from the right-of-way line of any intersection.

4. All fuel pumps shall be set back at least fifteen feet from any street line.

b. Bed and Breakfasts

1. When permitted in residential districts, bed and breakfasts shall include a maximum of six guest units and the residence of the facility owner.

2. Bed and Breakfasts shall provide one parking space per rentable bedroom. Tandem parking is allowed; however, not more than two (2) cars per tandem space shall be allowed.

3. Signage shall be limited to necessary and reasonable for identifying the establishment and in keeping with the residential character of the district.

4. Additional uses of the premises, such as "tearoom", "coffee house", or "conference center" require application for Special Use Permit in any zone and must comply with all other applicable requirements of the Valentine City Code and secure all applicable permits.

c. Campgrounds

1. Minimum Size: Each campground established after the effective date of this title shall have a minimum size of one acre.

2. Setbacks: All campgrounds shall maintain a 50-foot front yard setback and a 25-foot bufferyard from all other property lines.

3. Each campground must maintain water supply, sewage disposal, and water and toilet facilities in compliance with all City ordinances; or, alternately, be limited to use by self-contained campers, providing their own on-board water and disposal systems.

d. Construction Sales and Service

Retail home improvement stores and centers may include outdoor storage of materials and must comply with the following conditions:

1. Architectural design and materials of storage buildings shall be consistent with the current or projected character of the surrounding area.

2. All outside storage or display of merchandise or other materials or equipment shall be screened from view at eye level from a public street or adjacent property.

3. All storage buildings with overhead doors, drive openings, or open bays and all loading areas shall be fully screened from view at eye level from a public street or adjacent property.

4. Minimum screening shall be an opaque barrier no less than 6 feet in height.

5. All areas not occupied by buildings or landscaping shall be paved with concrete or asphalt, or surfaced with gravel or similar treatment to reduce dust.

e. Convenience/Mini-Storage

When permitted outside of the I-2 District, convenience storage facilities shall be subject to the following additional requirements:

1. Activities within the facility shall be limited to the rental of storage cubicles and the administration and maintenance of the facility.

2. All storage must be within enclosed buildings and shall not include the storage of hazardous materials.

f. Kennels

1. The minimum lot size shall be one acre.

2. No building or dog runs shall be located nearer than 100 feet from any property line and 250 feet to the property line of any residential use or district.

3. All kennel facilities shall be screened around such facilities or at property lines to prevent distracting or exciting animals. Screening shall be an opaque barrier no less than 6 feet high.

17.6 Supplemental Use Regulations: Industrial Uses

Salvage Services and Long-term Vehicle Storage and Dismantling

1. Screening:

(a) The perimeter of each new facility shall be fully enclosed by opaque, freestanding fencing or screen walls. Minimum height of this enclosure shall be eight feet. Any such enclosure shall be constructed behind required landscaped bufferyards.

(b) Each existing salvage services facility shall be screened as provided above within one year of the effective date of this Ordinance.

(c) The above requirement shall also apply to uses adjacent to residential zoning districts or residential uses that include the long-term storage and dismantling of vehicles

2. Storage of materials within any salvage services facility may not be higher than the height of the surrounding screen fence or wall.

3. No new Salvage Services use may be established within 500 feet of the nearest property line of a pre-existing residential zoning district or of any pre-established civic use.

17.7 Telecommunications Towers

In any district where radio, television, microwave, cellular, or other communication towers are allowed as a permitted or Special Permit Use, such towers are subject to the following additional requirements.

a. Tower Siting

1. It is the policy of the City of Valentine to encourage co-location of new communications towers with existing towers or as part of suitable existing structures. All applications for approval of a communications tower location shall include evidence that all potential alternatives for location on existing towers have been explored and exhausted. Applicants may not be denied space on an existing tower within the City of Valentine and its jurisdiction unless mechanical, structural, regulatory factors, or legitimate business expansion plans prohibit co-location.

2. The applicant for a communications tower location is required to demonstrate as part of its application that the tower must be located on the proposed site in order to satisfy its function in the company's system. The applicant must also demonstrate that the proposed height is the minimum height necessary for the successful functioning of the tower.

b. Tower Setbacks, Design, and Height

1. Free-standing towers shall be located so that the distance from the base of the tower to any adjoining property line or the supporting structure of a separate neighboring tower is a minimum of 100 % of the tower height. The Planning Commission may recommend and the City Council approve a reduction to the set back with a Special Use Permit if they determine that such reduction does not constitute a hazard to safety or property on adjacent properties or rights-of-way.

2. The tower installation shall be designed to be aesthetically and architecturally compatible with the built environment of the City of Valentine. The City encourages efforts to hide towers or restrict their visibility from public right-of-way or neighboring properties. Associated support buildings shall be designed with materials that are consistent with

those in the surrounding neighborhood. Metal exteriors shall generally not be permitted for accessory support buildings.

3. All tower installations shall maintain landscaped peripheral yards with a minimum depth of 35 feet from surrounding property lines. One tree shall be planted for every 500 square feet of required peripheral yard area.

4. As part of the Special Use Permit approval process, the Board of Adjustment may permit the tower to exceed the height restrictions otherwise allowable in the district.

5. Towers shall have a color generally matching the surroundings or background that minimizes their visibility, unless a different color is required by the FCC or FAA.

6. Lights, Signals and Signs: No signals, lights or signs shall be permitted on towers unless required by the FCC or the FAA. Should lighting be required, at the time of construction of the tower in cases where there are residential users located within a distance which is 300% of the height of the tower from the tower, then dual mode lighting shall be requested from the FAA. Lighting on towers shall not exceed the minimum requirements of the FAA or other regulatory agencies.

7. Adequate security measures are required at the base of the tower to prevent vandalism or hazards resulting from casual access to the facility.

c. <u>City Site Selection Criteria in Evaluating Applications for Communications Towers</u>

1. Consistent with the policy of this Ordinance, the telecommunications company proposing to construct an antenna support structure, or mount an antenna on an existing structure, shall demonstrate, using technological evidence, that the antenna must go where it is proposed in order to satisfy its function in the company's grid system. Further, the company must demonstrate by technological evidence that the height requested is the minimum height necessary.

2. Applications for necessary permits will only be processed when the applicant demonstrates that it is either an FCC licensed telecommunications provider or has in place necessary agreements with an FCC licensed telecommunications provider for use or lease of the support structure.

3. Personal wireless service facilities should be located and designed to minimize any impacts on residential property values. Sites should be placed in locations where the existing topography, vegetation, buildings or other structures provide the greatest amount of screening.

4. Location and design of sites in all Districts should consider the impact of the site on the surrounding neighborhood and the visual impact within the zone district. In residential districts and residential land use areas, the minimum lot size for towers shall be three acres.

d. <u>Priorities for Siting</u>

The following establishes the order of priorities for locating new communications facilities:

1. Public property, (excluding prairie, conservation or wildlife areas, or historic structures).

2. Appropriate existing structures, such as buildings, towers, water towers, and smokestacks in other zoned districts.

3. TA, I-1, or I-2 districts that do not adjoin or adversely impact residential neighborhoods.

4. Private non-residential property in C-2 districts.

5. Private, non-residential properties in C-1 districts.

6. Place antennas and towers on multi-family residential structures exceeding thirty feet (30′) in height in districts zoned R-3.

7. Residential districts only if locations for which a need has been demonstrated are not available on existing structures or in non-residential districts; and only on or in existing churches, parks, schools, utility facilities or other appropriate public facilities.

8. An applicant for a new antenna support structure to be located in a residential zoning district shall demonstrate that a diligent effort has been made to locate the proposed communications facilities on a government structure, a private institutional structure, or other appropriate existing structures within a non-residential zoning district, and that due to valid considerations including physical constraints, or technological feasibility, no appropriate location is available. The telecommunications company is required to demonstrate that it contacted the owners of structures in excess of thirty feet (30′) within a one-quarter mile radius of the site proposed, asked for permission to install the antenna on those structures, and was denied for reasons other than economic ones. The information submitted by the applicant shall include a map of the area to be served by the tower, its relationship to other antenna sites in the applicant's network, and an evaluation of existing buildings taller than thirty feet (30′), towers and water tanks within one-quarter mile of the proposed tower.

17.8 Supplemental Use Regulations: Miscellaneous Uses

a. <u>Landfills</u>

1. Compliance with Codes: Each landfill must comply with all relevant city, county, State, or Federal codes and statutes.

2. Prevention of Hazards: No facility shall present a hazard to surrounding residents or properties.

3. Drainage and Water Supply: No landfill may modify or prevent the flow of major natural drainage ways within the jurisdiction of the City of Valentine. Landfills shall not produce a measurable increase in pollution in any public water-based recreational facility or in any waterway or well that is a part of a public or private water supply.

4. Minimum Separation from Residential Uses: No non-putrescible landfill may be established within 300 feet of a developed residential or public use. No landfill involving the disposal of putrescible or septic wastes shall be established within one-fourth mile of any residential, public, or commercial zoning district; or any State of Federal Highway.

5. Restoration of Site: The site of any landfill must be restored, stabilized, planted, and seeded within six months after the end of the operation. Dissipation of waste products must be accomplished in a manner approved by the State of Nebraska's Department of Natural Resources.

6. Toxic Waste: The disposal of hazardous, toxic, or radioactive wastes as defined by the Federal Environmental Protection Agency shall be prohibited within the City of Valentine and its extra-territorial jurisdiction.

b. Wind Energy Conservation Systems (WECS)

1. The distance from all lot lines or any building or power line to any tower support base of a WECS shall be equal to the sum of the tower height and the diameter of the rotor. A reduction of this requirement may be granted as part of a Special Use Permit approval if the Zoning Board of Adjustment, after recommendation by the Planning Commission, finds that the reduction is consistent with public health, safety, and welfare.

2. The distance between the tower support bases of any two WECS shall be the minimum of five rotor lengths, determined by the size of the largest rotor. A reduction of this requirement may be granted as part of a Special Use Permit approval if the City Council, after recommendation by the Planning Commission, finds that the reduction does not impede the operation of either WECS.

3. Any tower or rotor shall maintain a distance of at least 100 horizontal feet from any structure, power line, or antenna located on another property.

4. The WECS operation shall not interfere with radio, television, computer, or other electronic operations on adjacent properties.

5. A fence eight feet high with a locking gate shall be placed around any WECS tower base; or the tower climbing apparatus shall begin no lower than twelve feet above ground.

6. The height of the WECS may exceed the height restrictions of the base district by up to 50%. The bottom tip of any rotor must be at least 10 feet above any area accessible to pedestrians.

17.9 Supplemental Use Regulations: Accessory Uses

a. Home-Based Businesses/ Home Occupations

Home-based businesses and home occupations are permitted as an accessory use in residential units and must register and obtain a permit from the office of the Zoning Administrator on an annual basis, subject to the following conditions:

1. External Effects:

(a) There shall be no change in the exterior appearance of the building or premises housing the home occupation other than signage permitted within this section.

(b) No noise, odors, bright lights, electronic interference, storage or other external effects attributable to the home occupation shall be noticeable from any adjacent property or public right of way.

(c) The home occupation shall be carried on entirely within the principal residential structure, or within an accessory structure that does not exceed 480 square feet in area or 15 feet in height.

(d) Mechanical or electrical equipment supporting the home occupation shall be limited to that which is self-contained within the structure and normally used for office, domestic or household purposes.

(e) No outdoor storage of materials or equipment used in the home occupation shall be permitted, other than motor vehicles used by the owner to conduct the occupation. Parking or storage of heavy commercial vehicles to conduct the home occupation is prohibited.

(f) No home occupation shall discharge into any sewer, drainageway, or the ground any material which is radioactive, poisonous, detrimental to normal sewer plant operation, or corrosive to sewer pipes and installations.

2. Employees: The home occupation shall employ only members of the immediate family living within the dwelling.

3. Extent of Use: The business, profession, occupation or activity shall not utilize an area in excess of thirty percent (30%) of the combined floor area of the residence, and any accessory building excluding open or screened-in porches or patios.

4. Signage: No sign, other than a nameplate no more than two square feet in area, shall be allowed; the sign shall be non-lighted, shall be non-reflecting in nature and may be attached to the dwelling or accessory building or may be freestanding. A freestanding sign shall be at least five feet from all property lines.

5. Traffic Generation and Parking

(a) Home-based businesses may generate no more than 10 vehicle trips per day, corresponding to amount of traffic normally generated by a dwelling unit.

(b) Deliveries or service by commercial vehicles or trucks rated at ten tons gross empty weight is prohibited for any home-based business located on a local street.

(c) Parking needs generated by a home-based business shall be satisfied with off-street parking. No more than one vehicle used in connection with any home occupation shall be parked on the property. Such parking shall not be located in a required front yard. No more than two on-street parking spaces shall be used by the home occupation at any one time.

6. Prohibited Home-Based Businesses/Home Occupations: The following activities are prohibited as home-based businesses, even if they meet the other requirements set forth in this section:

(a) Animal hospitals.
(b) General retail sales. General retail means sale of items typically available in retail outlets in commercial districts. Specialty retail items not generally available in retail outlets are permitted.
(c) Restaurants.
(d) Repair shops or service establishments that service major electrical appliance repair, motorized vehicles repair, small engines, and related items.
(e) Stables or kennels.
(f) Welding, vehicle body repair, or rebuilding or dismantling of vehicles.

b. Permitted Accessory Uses: Residential Uses

Residential uses may include the following accessory uses, activities, and structures on the same lot.

1. Private garages and parking for the residency use. The maximum permitted size of a private residential garage is 1,500 sq. ft. in area.

2. Recreational activities and uses by residents.

3. Home occupations, subject to the provisions of this Ordinance.

4. Non-commercial convenience services for the primary use of residents of multi-family uses or mobile home parks, including laundromats, hair salon, clubhouses, and post offices.

5. Garage sales, provided that the frequency of such sales at any one location are limited to one sale of no more than three consecutive days duration in a month, and four sales during any twelve month period.

c. Permitted Accessory Uses: Other Use Types

Other use types may include the following accessory uses, activities, and structures on the same lot:

1. Parking for the principal use.

2. Minor manufacturing or fabrication of products made for sale in a principal commercial use, provided such manufacturing is totally contained within the structure housing the principal use.

3. Services operated for the sole benefit of employees of the principal use.

d. Permitted Accessory Uses: Agricultural Use Types

1. Garden centers and roadside stands, subject to the regulations set forth in 17.2 b.

2. Other uses and activities necessarily and customarily associated with the purpose and functions of agricultural uses.

17.10 Supplemental Use Regulations: Outdoor Storage outside of the I-1 and I-2 Zoning Districts

Outdoor storage is prohibited in all zoning districts except the I-1 Limited Industrial and I-2 General Industrial zoning district, except as provided in this section.

a. Agricultural Use Types

Outdoor storage is permitted only where incidental to agricultural uses.

b. Residential Uses and Property

Except as otherwise provided by this Ordinance, any goods, equipment, materials, machinery, and parts thereof stored on any residentially zoned property must be stored in completely enclosed buildings or in spaces screened by fencing and/or evergreen shrubbery providing at least an 80% screen and having a height of no less than 6 feet nor more than 8 feet.

c. Civic Use Types

Outdoor storage is permitted only where incidental to Maintenance Facilities, or in completely enclosed buildings or in spaces screened by fencing and/or evergreen shrubbery providing at least an 80% screen and having a height of no less than 6 feet nor more than 8 feet.

d. Commercial Use Types

1. Outdoor storage is permitted where incidental to Agricultural Sales and Service, Auto Rentals and Sales, Construction Sales and Service, Equipment Sales and Service, Stables and Kennels, and Surplus Sales.

2. Outdoor storage is permitted where incidental to Auto Services, Equipment Repair, Long-term Vehicle Storage, and Body Repair, provided that such storage is completely screened at property lines by an opaque barrier, no less than 6 feet or greater than 8 feet in height. This provision shall apply to any Auto Services, Equipment Repair, or Body Repair use established after the effective date of this Ordinance.

e. Industrial and Miscellaneous Use Types

1. Outdoor storage is permitted where it is incidental to industrial uses within the TA and I-1 zoning districts. Any such outdoor storage is required to be screened by an opaque barrier no less than 6 feet in height.

2. Outdoor storage is permitted where incidental to landfills.

17.11 Supplemental Use Regulations: Temporary Uses

a. Purpose

These provisions are intended to permit occasional, temporary uses and activities, when consistent with the objectives of the Zoning Ordinance and compatible with surrounding uses. They are further intended to prevent temporary uses from assuming the character of permanent uses.

b. Temporary Use Types

The following temporary uses are permitted, subject to the regulations contained within these sections:

1. Model homes or apartments, if contained within the development to which they pertain.

2. Development sales offices. Such offices may remain in place until 90% of the lots or units within the development are sold and may not be located within a mobile home or manufactured home/structure.

3. Public assemblies, displays, and exhibits.

4. Commercial circuses, carnivals, fairs, festivals, or other transient events, provided that events are located on property owned by the sponsoring non-profit organization, or are located within an TA, C-1, C-2, I-1, or I-2 zoning district. Such uses shall not exceed three weeks in duration.

5. Outdoor art shows and exhibits.

6. Seasonal sales, including Christmas tree or other holiday-related merchandise sales lots, provided that such facilities are not located in a residential zoning district.

7. Construction site offices, if located on the construction site itself.

8. Outdoor special sales, provided that such sales are located in commercial or industrial zoning districts.

9. Construction Batch Plants in the I-2 District provided that:

(a) No plant may be located within 600 feet of a developed residential use, park, or school.

(b) The facility is located no more than one mile from its job site. The Zoning Administrator may extend this distance to two miles, if such extension avoids use of local streets by plant-related vehicles.

(c) Hours of operation do not exceed 12 hours per day.

(d) The duration of the plant's operation does not exceed 180 days.

10. Additional temporary uses that the Zoning Administrator determines to be similar to the previously described uses in this section.

c. Required Conditions of All Temporary Uses

1. Each site shall be left free of debris, litter, or other evidence of the use upon its completion or removal.

2. The Zoning Administrator may establish other conditions that he/she deems necessary to ensure compatibility with surrounding land uses.

ARTICLE 18

SUPPLEMENTAL DEVELOPMENT REGULATIONS

18.1 Purpose

The Supplemental Site Development Regulations establish basic requirements for developable lots, including frontage requirements. They recognize the existence of special conditions that cannot comply literally with the site development regulations set out for each zoning district. Therefore, these regulations qualify or modify the district regulations of this Ordinance and provide for specific areas of exception.

18.2 Required Street Frontage

Except as otherwise provided for, every building shall be constructed or erected upon a lot or parcel of land which abuts upon a public street or permanent easement of access to a public street.

18.3 Lot Size Exceptions

a. When two or more parcels of land, each of which lacks adequate area and dimension to qualify for a permitted use under the requirements of the use district in which it is located, are contiguous and are held in one ownership, they shall be used as one zoning lot for such use.

b. A new lot established pursuant to this section may be utilized for a permitted use, provided that yards, courts, or visible open spaces are not less than 75 percent of the minimum required dimensions or areas.

18.4 Structures Located in City Right-of-Way or Easement

No structure, except a single mailbox attached to a single post or except multiple mailboxes attached as one unit to one or more posts, shall be placed in a City right-of-way or easement except as set forth herein. The Council may approve a request to build a structure on a City right-of-way or easement benefiting the City if:

a. The proposed structure will not significantly limit or impair the ability of the City to utilize said right-of-way or easement; and

b. The proposed structure will not significantly limit or impede the ability of the City to provide essential City services, including but not limited to utility service, snow removal and street repair; and

c. The property owner executes an indemnification agreement holding the City harmless and indemnifying it for any losses resulting from injury or damages to personal property caused by the structure placed upon the City right-of-way or easement.

18.5 Division of Zoning Lots

No improved zoning lot shall hereafter be divided into two or more zoning lots and no portion of any improved zoning lot shall be sold, unless all improved zoning lots resulting from each such division or sale shall conform with all the regulations of the zoning district in which the property

is located. However, with respect to the resubdivision of improved zoning lots in the R-2 and R-3 Districts, side yard requirements shall not apply between attached buildings.

18.6 Number of Buildings on a Zoning Lot

Except in the case of planned unit developments, no more than one principal detached residential building shall be located on a zoning lot, nor shall a principal detached residential building be located on the same zoning lot with any other principal building.

18.7 Setback Adjustments

a. Lots Adjoining Alleys

In calculating the depth of a required side or rear yard setback for a lot adjoining a dedicated public alley, one-half of the alley may be credited as a portion of the yard. Garages with direct access from the alley should provide adequate setback from the alley, beyond the minimum required, to provide for vehicle maneuvering.

b. Encroachments on Required Yards

Every part of a required yard shall be open and unobstructed from finished grade upward, except as specified herein.

1. Architectural projections, including roofs that cover porches, enclosed porches, window sills, belt courses, cornices, eaves, flues and chimneys, and ornamental features may project two feet into a required yard.

2. Terraces, patios, uncovered decks, and ornamental features that have no structural element more than three feet above or below the adjacent ground level may project six feet into a required front yard. However, all such projections must be set back at least three feet from an adjacent side lot line; or 15 feet from any street property line.

3. Fire escapes, fireproof outside stairways, and balconies opening to fire towers may project a maximum of 3 feet into required yards, provided that they do not obstruct the light and ventilation of adjacent buildings.

4. For buildings constructed upon a front property line, a cornice may project into public right-of-way, unless such property is constructed on a State or Federal Highway. Maximum projection is the smaller of four feet or five percent of the right-of-way width.

5. In commercial districts, a canopy may extend into a required front yard, provided that the canopy is set back at least five feet from the front property line, covers less than fifteen percent of the area of the required front yard, and has a vertical clearance of at least eight feet six inches.

6. Swimming pools shall be subject to the same location and setback requirements as accessory buildings.

7. Lamp posts with a maximum height of ten (10) feet, and flag poles up to maximum height of base district may be located within required yards, provided they are set back at least five (5) feet from property lines. The spread of a flag when fully extended shall not extend onto public right-of-way.

8. Garage Setbacks: Any garage that fronts on a public street must be set back at least 20 feet from such street, regardless of the setback requirement within the zoning district. This shall not be interpreted to waive a larger required minimum setback required by the zoning district.

c. Setbacks on Arterial Streets

Notwithstanding any other provision of this ordinance, the City may require a setback for all buildings built or altered, or off-street parking areas developed along a State or Federally designated highway that exceeds those normally required for the zoning district.

Lots of record under five acres in size; lots of record duly platted and approved prior to the effective date of this Ordinance, or where a properly dedicated and accepted frontage road right-of-way exists are exempt from these provisions and are instead subject to the setback requirements of their respective zoning district.

d. Setback Adjustments

1. Setbacks on Built-Up Blockfaces

In R-1 through R-3 districts, where some lots are developed with a front yard that is less than the minimum required for the district by this Zoning Ordinance, or where some lots have been developed with a front yard greater than required herein, the following rule shall apply: Any new building or addition shall not be closer to the street right-of-way than the average of the front yards of the existing buildings on the same side of the street within the same block, except as follows:

(a) Buildings located entirely on the rear half of a lot shall not be counted.

(b) Buildings further than 300 feet from the lot in question shall not be counted.

(c) No building shall be required to have a front yard greater than 50 feet.

2. Corner Lots

(a) Required setbacks shall not reduce the buildable width of any corner lot to less than 25 feet. Appropriate setback adjustments shall be allowed to maintain this minimum width.

(b) No setback adjustment shall permit encroachment into the vision clearance triangle.

e. Double Frontage Lots

Residentially zoned double frontage lots on a major street, and with no access to that street may have a 25-foot minimum front yard setback along said street. All other double frontage lots must

provide full front yard setbacks from each adjacent street.

f. Vision Clearance Zones

On any corner lot in any district, no fence, wall or other structure shall be erected, and no foliage plant shall be permitted to grow to a height of more than three feet above the elevation of the established curb grade at the intersection of the streets, on any part which is bounded by street lines of the intersecting streets and within a line connecting two points on said street lines 20 feet from their point of intersection. The street lines, for the purpose of this section, are deemed to begin at the edge of the street right-of-way and not the street surface or curb line.

18.8 Accessory Buildings, Structures and Garages.

a. Time of Construction. No accessory building, accessory structure or garage shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory.

b. Exempted from specific requirements. Residential accessory structures having a lot coverage of 36 sq. ft. or less are exempt from building permit requirements.

c. Percentage of Required Rear Yard Occupied. No detached, accessory structure, accessory building or buildings shall occupy more than thirty-five percent (35%) of the area of a required rear yard.

d. Height of Accessory Buildings in Required Rear Yards. No detached accessory building or accessory structure located in a required rear yard shall exceed 16 feet in height.

e. On Reversed Corner Lots. On a reversed corner lot in a residential district and within 15 feet of any adjacent property to the rear in a residential district, no accessory building or accessory structure or portion thereof located in a required rear yard shall be closer to the side lot line abutting the street than a distance equal to the least depth which would be required herein for the front yard on such adjacent property to the rear. Further, in the above instance, no such accessory building or structure shall be located within five feet of any part of a rear lot line which coincides with the side lot line or portion thereof of property in an R-1 or R-2 District.

f. Setback Requirements. No accessory building or accessory structure shall be placed within five feet of a side or rear lot line. No accessory building or structure shall be within five feet of the principal structure on the lot. No accessory structure or use shall be located within a front yard.

g. Type of Construction. All accessory buildings or structures larger than 1100 square feet or private garages located within a residential district shall be constructed in a manner consistent with the residential character of the district. All accessory buildings, accessory structures or private garages located within a residential district shall be constructed with any commercially acceptable siding material which may include factory painted galvanized steel, painted steel, or aluminum sheets, and any commercially acceptable roofing material which may include asphalt, fiberglass shingles, vulcanized rubber, steel or aluminum roofing materials.

18.9 Height Exceptions

These provisions allow exceptions to the height limit of any zoning district in certain situations.

a. Vertical Projections

1. Chimneys, cooling towers, building mechanical equipment, elevator bulkheads, silos, fire towers, grain elevators, non-parabolic receiving antennas, tanks, solariums, steeples, penthouses not exceeding 25 percent of total roof area, flag poles, stage towers or scenery lofts, and water towers may be built to any height in accordance with existing and future ordinances.

2. Any such equipment or vertical projections attached to a building and exceeding the height limit shall be screened to prevent visibility from public right-of-way or adjacent property using materials or design features that are consistent with the overall design of the main building.

3. No such projection may be built which in the event of failure could constitute a hazard or fall onto either public right-of-way or property, or another private property

b. Civic Buildings

Buildings housing civic use types may be built to a maximum height of 60 feet. Such buildings located in residential districts shall be set back one foot in addition to required setbacks from each property line for each foot of height over the maximum height of the zoning district.

c. Wind Energy Conservation Systems (WECS)

Wind Energy Conservation Systems are subject to the regulations of Section 17.9 b.

18.10 Fence Regulations

a. Sight Obstruction at Street Intersections

No fence or hedge permitted or required by this Section or other sections of the Valentine Municipal Code shall be built to a height wherein visibility at intersections is hindered.

b. Facing

The finished surfaces of any fence shall face toward the street frontage.

c. Fence Construction on Utility Easements

Any fence erected on a tract of land subject to an easement for the construction, maintenance, operations, or replacement of any water, sanitary or storm sewer, gas line, electric power, telephone, or other utility poles, or other cables or lines shall be designed and constructed to be readily removable to permit the use of the easement. Such fences shall be subject to removal by request whenever necessary to permit access. The cost of removal or replacement shall be the responsibility of the owner of the fence.

d. Fences

Fences constructed within the city limits are subject to the following provisions.

1. Height: The maximum average height of a fence or wall may not exceed eight feet in height provided that visibility at intersections is not hindered.

2. Materials: Fences shall be constructed of wood, chain-link, PVC/ resin, stone or masonry materials, or ornamental metals only. Wood fences shall utilize standard building lumber only. Barbed wire and/or electrified fences are not permitted, and are defined as any fence that includes in its material barbs, blades, razors, electric current or other features specifically designed to injure or abrade an individual or animal who attempts to negotiate the fence. Wire mesh fences may be permitted to enclose tennis courts and game and recreation areas on public land and residential lots.

3. Public Fences: Fences surrounding school yards or public parks shall be exempt from the height provisions as herein stated provided that visibility at intersections is not hindered.

4. The Board of Adjustment may approve greater fence heights on a case-by-case basis if it concludes that such permission furthers the health, safety, and welfare of the residents of the City of Valentine.

e. Residential Fences

Fences constructed within residential districts or on land used for residential purposes are subject to the following provisions.

Height: The maximum average height of a fence or wall may not exceed eight feet in height when located within the limits of side or rear yards. A fence or wall not exceeding four feet in height is permitted within the limits of front yards. In the case of retaining walls supporting embankments, the above requirements shall apply only to that part of the wall above the ground surface of the retained embankment.

18.11 Appeals

Denial, revocations, or cancellations of a building permit based on the provisions of this Section may be appealed to the Board of Adjustment, as set forth in Article 19.13.

ARTICLE 19

ADMINISTRATION AND ENFORCEMENT

19.1 Zoning Administrator. The City Manager or his/her designee shall administer and enforce the Zoning Ordinance as the City's Zoning Administrator. Said Zoning Administrator may be provided with the assistance of such other persons as the City Manager may direct. If the Zoning Administrator finds that any of the provisions of this Zoning Ordinance are being violated, the Zoning Administrator shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The Zoning Administrator shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of illegal work being done or shall take any other action authorized by this Zoning Ordinance to ensure compliance with or to prevent violation of the provisions hereof.

19.2 Building Permits Required. No building or other structure shall be erected, moved, added to or structurally altered without a permit therefore, issued by the Zoning Administrator. No building permit shall be issued by the Zoning Administrator except in conformity with the provisions of this Zoning Ordinance, unless the Zoning Administrator receives written order from the Board in the form of an administrative review, special exception or variance as provided herein.

19.3 Application for Permit. All applications for building permits shall be accompanied by plans drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration or other similar drawing so required by the Zoning Administrator. The application shall include such other information as lawfully may be required by the Zoning Administrator, including existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families, housekeeping units or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with and provide for the enforcement of this Zoning Ordinance.

19.4 Expiration Of Building Permit. If the work described in any building permit has not begun within 180 days from the date of issuance thereof, said permit shall expire; it shall be canceled by the Zoning Administrator; and written notice thereof shall be given to the persons affected.

19.5 Construction And Use To Be As Provided In Application, Plans and Permits. Building permits issued on the basis of plans and specifications approved by the Zoning Administrator authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Use, arrangement or construction at variance with that authorized shall be deemed violation of the Zoning Ordinance.

19.6 Investigation Fees; Work Without Permit.

a. Investigation. Whenever any work for which a permit is required by the Zoning Ordinance has been commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work.

b. Fee. An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee that would be required by this Zoning Ordinance if a permit were to be issued. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this Code of Ordinances or any penalty prescribed by law.

19.7 Amendments.

a. Hearing Required; Notice.
The Council may, on its own motion or as the result of a petition by a private party, amend, supplement, change and/or repeal this Zoning Ordinance including the boundaries of zoning districts. No such action shall be effective until a public hearing on the amendment, supplement, change and/or repeal has been held by the Council, at which parties in interest and citizens shall have an opportunity to be heard. Notice of time and place of public hearing shall be published in a newspaper of general circulation in the City at least 10 days prior to the public hearing.

b. Planning Commission Report Required; Hearing.
Before the Council holds its public hearing, the proposed amendment, supplement, change, modification or repeal shall be referred to the Commission for its recommendations and report. No report or recommendation shall be made to the Council until the Commission holds a public hearing, at which parties in interest and citizens shall have an opportunity to be heard. Not less than 10 days' notice of time and place of such hearing shall be published in a newspaper of general circulation in the City. This notice may be published concurrently with the notice required in subsection (a) above. If the Commission makes no report or recommendation within 30 days, it shall be considered to have made a report approving the proposed amendment, supplement, modification, change or repeal.

c. Unfavorable Report or Protest; Council Vote Required.
If the Commission recommends against, or if a protest against signed by the owners of 20 percent or more of either of the area of the lots included in the proposed change or of those immediately adjacent in the rear thereto extending the depth of one lot or not to exceed 300 feet therefrom or of those directly opposite thereto, extending the depth of one lot or not to exceed 300 feet from the street frontage of such opposite lots, such amendment, supplement, change, modification or repeal shall not become effective except by favorable vote of at least three-fourths of all the members of the Council.

d. Application Fee.
A nonrefundable fee shall be paid by the applicant to the City at the time of filing application for amendment, supplement, change, modification or repeal. The fee shall be in an amount established by the Council.

e. Procedures. Any person may submit to the Council an application requesting a change in the zoning district boundaries as shown on the Official Zoning District Map. Such application shall be filed with the Zoning Administrator accompanied by a fee set by resolution of the Council and shall contain the following information:

1. The legal description and local address of the property.

2. The present zoning classification and the zoning classification requested for the property.

3. The existing use and proposed use of the property.

4. The names and addresses of all the owners of all property within 300 feet of the property for which the change is requested.

5. A statement of the reasons why the applicant feels the present zoning classification is no longer valid.

6. A plat showing the locations, dimensions and use of the applicant's property and all property within 300 feet thereof, including streets, alleys, railroads and other physical features.

19.8 Conditions on Rezoning

As a part of an ordinance changing land from one zoning district to another zoning district or an ordinance approving a site development plan, the Council may impose conditions on a property owner which are in addition to existing regulations if the additional conditions have been agreed to in writing by the property owner before the public hearing required under this section or any adjournment of the hearing. The conditions must be reasonable and imposed to satisfy public needs which are directly caused by the requested change.

19.10 Board of Adjustment

a. Establishment

1. A Board of Adjustment is hereby established to provide relief in situations of hardship or to hear appeals as provided by this Section. The Board shall consist of five regular members, plus one additional alternate member who shall attend and vote only when one member is unable to attend for any reason.

2. Each member shall be appointed by the City Council for a three-year term and is removable for cause by the appointing authority upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member of the Board shall be appointed from the Planning Commission, and the loss of membership on the Commission by such member shall also result in his/her immediate loss of membership on the Board of Adjustment and the appointment of another Planning Commissioner to the Board.

3. The Board of Adjustment shall adopt rules and regulations in accordance with these regulations and the laws of the State of Nebraska pursuant to Sections 19-901 to 19-914 of Nebraska State Statutes. Meetings shall be held at the call of the Chairman and at such other times as the Board may determine. Such chairman, or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings and records shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact. The Board shall keep a record of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. A majority of the Board shall constitute a quorum for the transaction of business.

b. Procedure for Appeals

1. Appeals shall be made to the Board of Adjustment through the office of the Zoning Administrator in written form as determined by the Zoning Administrator. The Board shall fix a reasonable time for the hearing of the appeal and shall decide the appeal within 30 days of the date of the public hearing. An appeal stays all proceedings in furtherance of the action, unless the Zoning Administrator certifies to the Board that by reason of the facts stated in the certificate, a stay would, in his/her opinion, cause imminent peril to life or property.

2. The Board shall provide a minimum of ten days notice of a public hearing on any question before it. Notice of the hearing shall be posted in a conspicuous place on or near the property on which the application has been made; by publication in a newspaper of general circulation in the City of Valentine; and by written notice to the appealing party.

3. Upon the public hearing, any party may appear in person or by agent or attorney. The concurring vote of four out of five members of such board as so composed shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the appellant on any matter upon which it is required to pass under any Unified Land Development Ordinance, or to effect any variation in such regulations.

19.11 Powers and Duties of the Board of Adjustment

The Board of Adjustment shall have only the following powers and duties:

a. Administrative Review: To hear and decide appeals where it is alleged there is error in any order, requirement, decisions or determination made by the Building Official, or his/her designee in the enforcement of these regulations or any regulation relating to the location or soundness of structures

b. Interpretation of Zoning Map: To hear and decide, in accordance with the provisions of any zoning regulation, requests for interpretation of any map.

c. Variances to Relieve Hardships Relating to Property: To authorize, upon appeal, variances from the strict application of these regulations where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the zoning regulations; or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, such strict application would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property.

1. Requirements for Grant of a Variance. No such variance shall be authorized by the Board unless it finds that:

(a) Strict application of the zoning regulations will produce undue hardship.

(b) Such hardship is not shared generally by other properties in the same zoning district and in the same vicinity.

(c) The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance.

(d) The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice.

(e) The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable a general regulation to be adopted as an amendment to these Zoning Regulations.

(f) The granting of the variance will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of any Ordinance or Resolution.

2. Findings by Board. The Board of Adjustment shall make findings that the requirements of Section 19.11c(l) have been met by the applicant for a variance.

3. Conditions for Grant of Variance.

(a) In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with these regulations. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of these regulations and punishable under Section 19.16 of these regulations.

(b) Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of these regulations in the district involved, or any use expressly or by implication prohibited by the terms of these regulations in said district.

(c) No non-conforming use of neighboring lands, structures, or buildings in the same district and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

e. <u>Board has Powers of Building Official on Appeals: Reversing Decisions of Building Official</u>

In exercising the above mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of these regulations, reverse or affirm, wholly or partly, or may modify the order, requirement, decisions, or determination as ought to be made, and to that end shall have the powers of the Building Official from whom the appeal is taken.

The concurring vote of four members of the Board shall be necessary to reverse any order, requirements, decision, or determination of the administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under these regulations, or to effect any variation in the application of these regulations.

19.12 Expiration or Revocation of Board of Adjustment Actions.

a. A variance or other permissive action of the Board of Adjustment shall become void six months after its effective date if the applicant has not carried out development or occupancy during that period. If a variance or other permissive action is discontinued for a period of one year, such variance or exception shall lapse, and any subsequent use of such land or structure shall conform to the district regulations for the district in which such land or structure is located..

After such expiration, the applicant must reapply for another appropriate Board of Adjustment action, following the procedures of this section.

b. The Board of Adjustment may revoke a variance or other permissive action should the applicant violate the conditions under which the variance or other action was granted.

19.13 Appeals from the Board of Adjustment.

Any person or persons, or any board, taxpayer, officer, department, board or bureau of the city aggrieved by any decision of the Board of Adjustment may seek review of such decision by the District Court for the County in the manner provided by the laws of the State and particularly by 19-912 R.R.S. 1943 (Reissue 1991), and amendments thereto.

19.14 Duties of Zoning Administrator, Board of Adjustment, City Council, and Courts on Matters of Appeal.

a. It is the intent of these regulations that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning Administrator, and that recourse from the decisions of Board of Adjustment shall be to the courts as provided by law.

b. Under these regulations the City Council shall have only the duties (1) of considering and adopting or rejecting proposed amendments, or the repeal of these regulations as provided by law, (2) of establishing a schedule of fees and charges as stated in Section 12 of these regulations, and (3) of directing a city officer to appeal a decision of the Board of Adjustment.

19.15 Complaints Regarding Violations.

Whenever a violation of this ordinance occurs, or is allowed to have occurred, any person may file a written complaint. Such complaints stating fully the causes and basis thereof shall be filed with the Zoning Administrator. He/she shall record properly such complaint immediately, investigate, and take action thereon as provided by this resolution.

19.16 Penalties for Violation.

a. Any person, firm, or corporation violating any provision of the Zoning Regulations of the City of Valentine, Nebraska, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined in any sum not less than Ten Dollars ($10.00) nor more than One Hundred Dollars ($100.00) for each offense, and any actual costs or expense incurred by the City as a result of said offense shall be taxed as costs as a part of the judgment of conviction.

b. The owner or tenant of any building, structure, premises, or part thereof, any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

c. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

§19.17 Special Use Permits.

a. Uses allowed by special use permit

In accordance with Section 4.12 b., the Planning Commission may, by special permit after public hearing, authorize the location of buildings and uses in districts as indicated in Tables 4.1 through 4.6, provided, however, that no such special permit shall be granted authorizing any building or use in a flood area.

b. Standards

The special uses shall conform to the intent and purpose of these regulations, the Comprehensive Development Plan, and the following requirements:

1. The use shall in all other respects conform to the applicable regulations of the district in which it is located.

2. The use shall have adequate water, sewer, and drainage facilities.

3. Ingress and egress shall be so designed as to minimize traffic congestion in the public street, road or highway.

4. The use shall be in harmony with the character of the area and the most appropriate use of the land.

5. Any structure or use of land to be allowed by a special permit shall by its design, construction and operation adequately safeguard the health, safety and welfare of the occupants of adjoining and surrounding property; shall not unduly increase congestion in the public streets; shall not increase public danger of fire and safety; and shall not diminish or impair established property values in surrounding areas, and shall have no significant detrimental impact on the use and enjoyment of adjoining properties.

c. Conditions and safeguards.

In granting any special permit under the terms of this division, the Planning Commission may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the special permit is granted, shall result in revocation of the special permit.

d. Application Fee.

A nonrefundable fee shall be paid by the applicant to the City at the time of filing application for special use permit. The fee shall be in an amount established by the Council.

§19.18 Abandonment of Exceptions and Special Use Permits.

a. Uses of land, structures and uses of structures which would otherwise be prohibited under this chapter but have been allowed by the granting of an exception or have been allowed as a

special permit may continue until such exception, or special permit lapses as provided in this section.

b. If any such use of land or of a structure is not commenced within one year of the allowance of the exception or conditional use, whichever is later, or is discontinued for a period of one year, such exception or conditional use shall lapse, and any subsequent use of such land or structure shall conform to the district regulations for the district in which such land or structure is located.

c. If the event the construction of any such structure is not commenced within two years of the issuance of the exception or special permit for such structure, whichever is later, and diligently pursued to completion, such exception or special permit shall lapse, and any subsequent use of such land shall conform to the district regulations for the district in which such land is located. If any such structure is destroyed by any means to an extent of 60 percent or more of its replacement cost at the time of destruction, it shall not be reconstructed; any such exception or special permit for such structure shall lapse; and any subsequent use of such land shall conform to the district regulations for the district in which such land is located.

19.20 Non-conforming Uses and Structures: Statement of intent.

Within the various districts established by this chapter or amendments that may be adopted, there exist structures and uses of land and structures which were lawful prior to the effective date of the ordinance from which this chapter derives but which would be prohibited under this chapter. It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this chapter that such nonconformities shall not be enlarged upon, expanded or extended.

19.21 Non-conforming Uses in any R district.

a. Nonconforming uses of land.
The lawful use of land upon which no building or structure is erected or constructed which becomes nonconforming under the terms of the ordinance from which this chapter derives or as this chapter may be amended may be continued so long as it remains otherwise lawful, subject to the following:

1. No such nonconforming use shall be enlarged or increased or extended to occupy a greater area of land than was occupied at the effective date of the ordinance adopting or amending this chapter.

2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel, which was not occupied by such use at the effective date of the ordinance adopting or amending this chapter.

3. If any such nonconforming use of land ceases for any reason for a period of more than six months, any subsequent use of such land shall conform to the district regulations for the district in which such land is located.

b. Nonconforming uses of structures.
If a lawful use of a structure or of a structure and land in combination exists at the effective date of the ordinance adopting or amending this chapter that would not be allowed in the district under the terms of this chapter, the use may be continued so long as it remains otherwise lawful, subject to the following:

1. No existing structure devoted entirely or in part to a use not permitted by this chapter in the district in which it is located, except when required by law, shall be enlarged, extended, reconstructed, moved or structurally altered, unless the use is changed to a use permitted in the district in which such structure is located.

2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use on the effective date of the ordinance adopting or amending this chapter. No such use shall be extended to occupy any land outside such building.

3. If no structural alterations are made, a nonconforming use of a structure may be changed to another nonconforming use of a similar nature within the same or a more restricted classification. Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restrictive use.

4. If a nonconforming use of a structure or structure and land in combination is abandoned, the use of such shall thereafter conform to the uses permitted in the district in which it is located. A use shall be deemed abandoned if while such use has been discontinued the owner of the property makes any change to the property inconsistent with the resumption of such use. Changes inconsistent with the resumption of a use include, but are not limited to: Placing the property to another use; or combining two or more dwelling units under one water, gas or electric meter; creating an opening between two dwelling units.

5. If a nonconforming use of a structure or structure and land in combination is discontinued for more than one year for any reason, the use of such shall thereafter conform to the uses permitted in the district in which it is located.

6. Any structure devoted to a use made nonconforming by this chapter that is destroyed by any means to an extent of 60 percent or more of its replacement cost at the time of destruction, exclusive of the foundations, shall not be reconstructed and used as before such happening. If the structure be less than 60 percent destroyed above the foundation, it may be reconstructed and used as before, provided it is done within six months of such happening and is built of like or similar materials. Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

c. Nonconforming structures, including signs.
Where a structure other than a sign exists at the effective date of the ordinance adopting or amending this chapter that could not be built under the terms of this chapter because of restriction on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot,

such structure may be continued so long as it remains otherwise lawful, subject to the following:

1. No such structure may be enlarged or altered in a way which increases its nonconformity.

2. If such structure is destroyed by any means to an extent of 60 percent or more of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with this chapter. Any single-family, semidetached or two-family dwelling which was a conforming structure on (effective date of ordinance) may be structurally altered, and if destroyed may be reconstructed and used as before, provided such reconstruction is commenced within one year of such destruction and diligently pursued to completion.

19.22 Non-conforming Uses in any district other than R districts.

a. Nonconforming uses of land.
The regulations governing nonconforming uses of land in any R district as described in Subsection 19.21 a. shall also apply to this section.

b. Nonconforming uses of structures.
If a lawful use of a structure or of a structure and land in combination exists at the effective date of the ordinance adopting or amending this chapter that would not be allowed in the district under the terms of this chapter, the use may be continued so long as it remains otherwise lawful, subject to the following:

1. Any structure in any district other than an R district devoted to a use made nonconforming by this chapter may be structurally altered or enlarged in conformity with the lot area, lot coverage, frontage, yard, height, and parking requirements of the district in which located, provided such construction shall be limited to buildings on land owned of record by the owner of the land devoted to the nonconforming use prior to the effective date of the ordinance from which this section derives. Such structural alteration or enlargement shall not authorize the substitution of a nonconforming use that is less restrictive than the one to which the structure was devoted on the effective date of the ordinance from which this section derives.

2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use on the effective date of the ordinance adopting or amending this chapter. No such use shall be extended to occupy any land outside such building.

3. If no structural alterations are made, a nonconforming use of a structure may be changed to another nonconforming use of a similar nature within the same or a more restricted classification. Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restrictive use.

4. If a nonconforming use of a structure or structure and land in combination is abandoned, the use of such shall thereafter conform to the uses permitted in the district in which it is located. A use shall be deemed abandoned if while such use has been

discontinued the owner of the property makes any change to the property inconsistent with the resumption of such use. Changes inconsistent with the resumption of a use include, but are not limited to: placing the property to another use; combining two or more dwelling units under one water, gas or electric meter; or creating an opening between two dwelling units.

5. If a nonconforming use of a structure or structure and land in combination is discontinued for more than one year for any reason whatsoever, the use of such shall thereafter conform to the uses permitted in the district in which it is located.

c. Nonconforming structures.
The regulations governing nonconforming structures in any R district, as described in subsections 19.21 c. shall also apply to this section.

19.23 Non-conforming Uses: Required repairs and unauthorized nonconformities.

a. Nothing in this chapter shall be deemed to prevent the restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

b. Any use of land, use of structures or structures, in existence on the effective date of the ordinance from which this chapter derives which was not an authorized nonconformity under previous zoning ordinances shall not be authorized to continue its nonconforming status pursuant to this chapter or amendments to this chapter.

19.24 Zoning Administrator Position created; appointment; supervision.

There is created the position of Zoning Administrator who shall be appointed by the city manager and shall be under the supervision of the City Manager or his/her designee.

19.25 Zoning Administrator Powers and duties.

The Zoning Administrator shall exercise the following powers and duties:

a. He and she and his or her designees shall exercise all enforcement powers under Sections 19.1 and 19.2, including but not limited to the investigation of complaints of zoning violations, issuance of notices and municipal infraction citations to violators, and the preparation and submission to the legal department of reports of those zoning violations which continue unabated after exhaustion of reasonable administrative remedies toward their abatement, for such legal action as the facts of each report may require.

b. In all cases in which the city commences court action, he or she shall cooperate with the city's attorney by performing such additional investigative work as the city's attorney shall require.

c. He shall attend the meetings of the plan and zoning commission and the zoning board of adjustment as requested by those bodies, shall investigate and review all cases presented to the zoning board of adjustment, and shall advise that body on those cases upon request.

d. If the city, after analysis of the report, institutes legal proceedings, the Zoning Administrator will cooperate fully with the city's attorney in the perfecting of such proceedings.

e. The Zoning Administrator or the officer's designee may provide a written determination regarding the application of this chapter and related land use regulations in this Code to a specific site to any person requesting such information upon receipt of a fee in the amount set in the schedule of fees adopted by the city council by resolution.

19.26 Occupancy Permits: Required for land and buildings.

No land shall be occupied or used and no building erected or structurally altered shall be occupied or used in whole or in part for any purpose whatsoever until a certificate is issued by the Zoning Administrator, stating that the building and use comply with the provisions of this chapter and the city's building and health ordinances.

19.27 Occupancy Permits: Required for change of use.

No change of use shall be made in any building or part thereof erected or structurally altered without a permit being issued therefore by the Zoning Administrator. No permit shall be issued to make a change unless the changes are in conformity with this chapter.

19.28 Occupancy Permit Fee.

Prior to the issuance of a certificate of occupancy and compliance, the applicant shall pay to the city treasurer a fee in the amount established by Council. Where applicable, such sums shall be paid to the city treasurer upon application for a building permit.

19.29 Occupancy Permit Fee exemption for federal property.

Application for a certificate of occupancy and compliance for property wholly owned by the federal government may be made without paying the fee referenced in 19.28.

19.30 Occupancy Permits Nonconforming uses.

a. Nothing in the Occupancy Permit regulations shall prevent the continuance of a nonconforming use as authorized, unless a discontinuance is necessary for the safety of life or property.

b. A certificate of occupancy shall be required of all nonconforming uses. Application for certificate of occupancy for nonconforming uses shall be filed with the Zoning Administrator, accompanied by affidavits of proof that such nonconforming use was not established in violation of this chapter.

19.31 Occupancy Permits: Time limits; records.

Certificates for occupancy and compliance shall be applied for coincidentally with the application for a building permit and shall be issued within ten days after the lawful erection or alteration of the building is completed. A record of all certificates shall be kept on file in the office of the Zoning Administrator, and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building affected.

19.32 Occupancy Permits: Issuance.

No permit for excavation for or the erection or alteration of any building shall be issued before the application has been made for certificate of occupancy and compliance, and no building or premises shall be occupied until that certificate and permit is issued.

19.33 Occupancy Permit: Plat required.

Each application for a occupancy permit shall be accompanied by a plat in duplicate, drawn to scale, showing the actual dimensions of the lot to be built upon; the size, shape and location of the building to be erected; and other information as may be necessary to provide for the enforcement of this chapter. A record of applications and plats shall be kept in the office of the Zoning Administrator.

19.34 Planned Unit Development Administrative Amendments: Definition of Insubstantial Change.

The term "insubstantial change" shall have the meanings ascribed below, except where the context clearly indicates a different meaning:

Insubstantial Change includes but is not limited to a change:

a. Which does not increase the density of developments or the number of dwelling units, e.g., substituting two single-family units for a duplex, or two duplexes for a fourplex.

b. Affecting the off-street parking arrangement, e.g., changing the angle of parking or adding or eliminating garages, as long as any such change reasonably supports the underlying character and function of the district.

c. In the orientation of a building, as long as no yard dimension shown on the original plan is reduced by more than ten percent.

d. To increase open space, setbacks or landscaping materials.

e. In plant material.

19.35 Procedures for changing a Planned Unit Development conceptual or final development plan.

a. This section applies only to Article 15, Planned Unit Development District, as specifically referenced in Section 15.10.

b. A preliminary or final development plan may be changed upon approval by the zoning enforcement office, if the Zoning Administrator determines that the change is in substantial compliance with the development plan as originally approved. Such approval shall be in writing and shall be signed by the Zoning Administrator. An applicant may request such a change by submitting the following:

1. A letter from the owner of the development authorizing the change.

2. A copy of the overall development plan clearly showing the change.

3. Three copies of the revised development plan. If the change is to a final development plan, the revised plan shall be done in accordance with Section 19.7 of this code.

c. All changes to a preliminary or final development plan not deemed to be in substantial compliance with the development plan as originally approved shall be made in accordance with the procedures in effect at the time of initial approval.

19.36 Administrative exceptions to district regulations.

a. Provided no protest is timely filed as allowed by this section, the Zoning Administrator may grant an administrative exception to any front, rear or sideyard setback, lot area, coverage, length, lot width, building height, or projection limitation or to the minimum required number of off-street parking or loading spaces, provided:

1. The Zoning Administrator determines the exception satisfies the requirements for the approval of an exception by the board of adjustment pursuant to section 19.16.d.1.

2. The exception satisfies one or more of the following limitations:

(a) The exception does not exceed 15 percent of the particular limitation in question.

(b) The exception is for one of two or more required off-street parking spaces.

(c) The exception is for no more than 1 1/2 feet of a setback requirement

(d) The exception is from a setback requirement and allows an addition to an existing legal nonconforming structure to extend no closer to the property line than an adjoining portion of the existing structure.

b. Prior to granting any administrative exception pursuant to this section, the Zoning Administrator shall cause notice of the exception, of the Zoning Administrator's intent to grant the exception if no protest is timely filed, and the manner in which protests may be filed, to be mailed to the owners of all property adjoining the subject property at their address of record as shown by the records of the county assessor.

c. The administrative exception shall not be granted until ten business days after the date the notice of intent to grant the waiver has been mailed to the owners of the adjoining property. The administrative waiver shall be denied if prior to its issuance any written protest resisting the granting of the administrative waiver is filed with the City of Valentine by any owner of adjoining property. However, the administrative exception may be immediately granted if an owner of each adjoining property has filed a consent to the exception with the community development department and no written protest has been received. The consent to the exception shall be in writing upon a form provided by the community development department.

d. The denial of an administrative exception shall not prevent the applicant from seeking approval of the exception from the board of adjustment pursuant to section 19.16.d.1.

e. Prior to mailing the notice of intent to grant the administrative exception, the applicant shall deposit with the community development department the fee determined by Council and the estimated notification costs for the exception as determined by the City of Valentine.